To amend and reenact R.S. 40:1046(A)(1), (2)(b), (3), (4), and (H)(1)(a) and to repeal R.S. 40:1046(A)(2)(d), (e), and (5) and Sections 2 and 4 of Act No. 96 of the 2016 Regular Session of the Legislature of Louisiana, relative to marijuana for therapeutic use, known also as medical marijuana; to provide relative to the authorization for physicians to recommend medical marijuana to a patient; to provide for the forms of medical marijuana which a physician may recommend to provide relative to the administrative rules for medical marijuana production; to repeal rules that refer to the prescribing of medical marijuana; to repeal rules that are contingent upon federal approval of marijuana for medical use; to provide a requirement that the Louisiana State Board of Medical Examiners report to the legislature concerning potential additions to the list of diseases or conditions qualifying a patient for treatment with medical marijuana; and to provide for related matters. Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1046(A)(1), (2)(b), (3), (4), and (H)(1)(a) are hereby amended and reenacted to read as follows:

§1046. Recommendation of marijuana for therapeutic use; rules and regulations; Louisiana Board of Pharmacy and the adoption of rules and regulations relating to the dispensing of recommended marijuana for therapeutic use; the Department of Agriculture and Forestry and the licensure of a production facility.

A.(1) Notwithstanding any other provision of this Part, a physician licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medicine in this state and who is domiciled in this state may recommend, in any form as permitted by the rules and regulations of the Louisiana Board of Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients any patient clinically diagnosed as suffering from a debilitating medical condition. Nothing in this Paragraph shall be construed to prevent the Louisiana Board of Pharmacy from permitting, by rule, medical marijuana in a form to be administered by metered-dose inhaler. For purposes of this Section, “metered-dose inhaler” means a device that delivers a specific amount of medication to the lungs, in the form of a short burst of medicine that is usually self-administered by the patient via inhalation.

(2)(a) No physician shall recommend medical marijuana for treatment of any condition associated with autism spectrum disorder for a patient who is under the age of eighteen unless the physician complies with the provisions of this Section and consults with a pediatric subspecialist. For purposes of this Subparagraph a pediatric subspecialist is an individual licensed to practice medicine in the United States who provides care to patients with autism spectrum disorder.

(3) For purposes of this Part, “recommended” or “recommended” means an order from a physician domiciled in Louisiana and licensed by and in good standing with the Louisiana State Board of Medical Examiners and authorized by the board to recommend medical marijuana that is patient-specific and disease-specific in accordance with Paragraph (2) of this Subsection, and is communicated by any means allowed by the Louisiana Board of Pharmacy to a Louisiana-licensed pharmacist in a Louisiana-permitted dispensing pharmacy as described in Subsection G of this Section, and is preserved on file as required by Louisiana law or federal law regarding medical marijuana.

Physicians A physician licensed to practice medicine in Louisiana may recommend medical marijuana to any patient suffering from a debilitating medical condition with whom he shares a bona fide doctor-patient relationship and shall recommend use of medical marijuana for treatment of debilitating medical conditions in accordance with rules and regulations promulgated by the Louisiana State Board of Medical Examiners.

H.(1)(a) The Department of Agriculture and Forestry shall develop the rules and regulations regarding the extraction, processing, and production of recommended therapeutic marijuana and the facility producing therapeutic marijuana. The rules and regulations shall include but not be limited to both of the following minimum standards:

(i) In order to mitigate the risk of bacterial contamination, food-grade ethanol extraction shall be used.

(ii) The center shall require as a minimum standard that the extraction and refining process shall produce a product that is food-safe and capable of producing pharmaceutical-grade products.
§2197. Electronic receipt
WV 7. While there is a minimum amount of time following the completion of a prearranged ride, a company shall transmit an electronic receipt to the rider on behalf of the driver. The receipt shall include all of the following:
(1) The origin and destination of the trip.
(2) The duration and distance of the trip.
(3) The total fare paid for the trip.

§2198. Zero tolerance policy
A. The company shall implement a zero tolerance policy regarding a driver's activities while accessing the company's digital network. The zero tolerance policy shall address the use of drugs or alcohol while a driver is providing prearranged rides or is logged into the company's digital network, regardless of whether the driver is providing prearranged rides. The company shall provide notice of this policy on its website as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the prearranged ride.
B. Upon receipt of a rider's complaint alleging a violation of the zero tolerance policy, the company shall suspend the alleged driver's ability to accept trip requests through the company's digital network immediately and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.
C. The company shall maintain records relevant to the enforcement of this requirement for a period of at least two years from the date that a rider's complaint is received by the company.

§2199. Transportation network company driver requirements
A. Before an individual is authorized to accept trip requests through a transportation network company's digital network, the following conditions shall be met:
(1) The individual shall submit an application to the company, which includes information regarding his address, age, driver's license, motor vehicle registration, insurance, and any other information required by the company.
(2) The company or a third party shall conduct a local and national criminal background check for each applicant that includes the following:
(a) A multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database with validation of any records through a primary source search.
(b) A search of the national sex offender public website maintained by the United States Department of Justice.
(3) The company or a third party shall obtain and review a driving history research report for each applicant.
B. The company or a third party shall conduct the background check and driving history research report set forth in Paragraphs (A)(2) and (A)(3) of this Section at least once every two years.
C. The company shall not authorize an individual to act as a driver if the individual's driving history report reveals the individual received more than three moving violations within the three-year period prior to applying to the company.
D. The company shall not authorize an individual to act as a driver if the individual's initial background check or any subsequent background check reveals the individual:
(1) Has had more than one of the following violations within the three-year period prior to applying to the company:
(a) From an officer or aggravated flight from an officer as provided for in R.S. 14:108.1.
(b) Reckless operation of a vehicle as provided for in R.S. 14:99.
(c) Operating a vehicle while under suspension for certain prior offenses as provided for in R.S. 14:108-2.
(2) Has been convicted, within the past seven years, of:
(a) Any enumerated felony as provided for in Title 14 of the Louisiana Revised Statutes of 1950, comprised of R.S. 14:1 through 601 through 98.4.
(b) Hit and run driving as provided for in R.S. 14:100.
(c) Any crime of violence as defined in R.S. 14:2/ED.
(d) Any crime of violence as defined in R.S. 14:2/ED.
(e) Is listed as an offender in the national sex offender public website maintained by the United States Department of Justice.
(f) Does not possess a valid driver's license to operate a personal vehicle.
(g) Does not possess the required registration to operate a motor vehicle used to provide prearranged rides.
H. The company shall not authorize a driver to drive a motor vehicle used to provide prearranged rides if the driver:
(1) Has had more than one of the following violations within the three-year period prior to applying to the company:
(a) From an officer or aggravated flight from an officer as provided for in R.S. 14:108.1.
(b) Reckless operation of a vehicle as provided for in R.S. 14:99.
(c) Operating a vehicle while under suspension for certain prior offenses as provided for in R.S. 14:108-2.
(2) Has been convicted, within the past seven years, of:
(a) Any enumerated felony as provided for in Title 14 of the Louisiana Revised Statutes of 1950, comprised of R.S. 14:1 through 601 through 98.4.
(b) Hit and run driving as provided for in R.S. 14:100.
(c) Any crime of violence as defined in R.S. 14:2/ED.
(d) Any crime of violence as defined in R.S. 14:2/ED.
(e) Is listed as an offender in the national sex offender public website maintained by the United States Department of Justice.
(f) Does not possess a valid driver's license to operate a personal vehicle.
(g) Does not possess the required registration to operate a motor vehicle used to provide prearranged rides.

§2200. Zero tolerance policy
A. The company shall implement a zero tolerance policy regarding a driver's activities while accessing the company's digital network. The zero tolerance policy shall address the use of drugs or alcohol while a driver is providing prearranged rides or is logged into the company's digital network, regardless of whether the driver is providing prearranged rides. The company shall provide notice of this policy on its website as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the prearranged ride.
B. Upon receipt of a rider's complaint alleging a violation of the zero tolerance policy, the company shall suspend the alleged driver's ability to accept trip requests through the company's digital network immediately and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.
C. The company shall maintain records relevant to the enforcement of this requirement for a period of at least two years from the date that a rider's complaint is received by the company.

§2201. Nondiscrimination: accessibility
B. Drivers shall comply with all applicable nondiscrimination laws.
C. Drivers shall comply with all applicable laws relating to transporting services to persons with physical disabilities.

§2202. Records
A company shall maintain the following records:
(1) Individual records of drivers for at least three years from the date each trip was provided.
(2) Individual records of drivers for at least three years after the date when a driver's relationship with the company has ended.

§2203. Audit procedures: confidentiality of records
A. For the purpose of verifying that a company is in compliance with the requirements of this Chapter, the department shall have the right to audit the records that the company is required to maintain. The audit shall be conducted using a reasonable sampling procedure agreed upon by the department and the company, and shall take place at a location agreed upon by the department and the company. Any record furnished to the department may, as appropriate, exclude information that would identify specific drivers or riders.
B. The governing body of a local governmental subdivision may request from the department a report on the results of the audit performed by the commission pursuant to Subsection A of this Section.

§2204. Local and state fees
A. Any local governmental subdivision that enacts a transportation network company ordinance prior to March 1, 2019, that included a per-trip fee, may charge a fee in the amount of a per-trip fee that is at least one percent of the gross trip fare for each prearranged ride that originates in this state, except that the fee may not be less than $0.25 for each prearranged ride originating in the state unless agreed to by all parties in writing after the dispute has arisen.

THE ADVOCATE
* As it appears in the enrolled bill
CODING: Words in underlined type are deletions from existing law; words underscored and scored (House Bills) and underscored and boldfaced (Senate Bills) are additions.

PAGE 2
(2) Funds received by the Department of Revenue in the form of assessment fees authorized in this Subsection shall be deposited immediately upon receipt into the state treasury in compliance with the provisions of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, an amount equal to that deposited as required by this Subsection shall be credited to the Department of Transportation and Development and shall be used solely for the expenses of the operations of the Department of Transportation and Development or for the support of its transportation network companies, and only in the amounts appropriated by the legislature.

G. The Department of Revenue shall have the sole audit authority with respect to fees remitted by a company to a local governmental subdivision and the Department of Revenue. A company shall keep accurate books and records reflecting its accounting and payment of fees, pursuant to this Section, in accordance with generally accepted accounting principles. For the assessment fee imposed pursuant to this Section and each local governmental subdivision that imposes an ordinance, imposing a fee pursuant to this Section, the Department of Revenue may conduct an audit of the books and records of any company. Said audit request, and no more than annually, conduct an audit of a company’s books and records related to its accounting and payment of fees to the local governmental subdivision and the Department of Revenue. Such an audit shall be conducted within thirty days of the conclusion of the Department of Revenue audit. A local governmental subdivision shall not add additional audit authority by ordinance. Any record furnished or disclosed to the Department of Revenue may, as appropriate information that would identify specific drivers or riders.

H. The governing body of a local governmental subdivision may request to review the results of an audit conducted pursuant to Subsection G of this Section with respect to fees remitted by a company to a local governmental subdivision.

*   *   *

Section 4. This Act shall become effective July 1, 2019.

Approved by the Governor, June 11, 2019

A true copy:

R. Kyle Ardoin
Secretary of State

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ACT No. 287

BY REPRESENTATIVES MCMAHEN, ADAMS, ANDERS, BAGLEY, BAGNERIS, BERTHELOT, BOUIE, BOURRIAQUE, BRASS, CHAD BROWN, TERRY BROWN, CARMDODY, GARY CARTER, STEVE CARTER, COX, CRABLY, CRANE, CRAY, DEVILLIER, DEVUSSION, DWIGHT, EDMONS, EMERSON, FOIL, GAINES, GLOVER, GUINN, JIMMY HARRIS, LANCE HARRIS, HILL, HOFFMANN, HORTON, HOWARD, JACKSON, JEFFERSON, JENKINS, MIKE JOHNSON, JONES, LACOMBE, NANCY LANDRY, TERRY LANDRY, LARVAUDIN, LYONS, MACK, MAGEE, MARCELLE, MCPARLAND, MOORE, JIM MORRIS, MUSCARELLO, NORTON, POPE, PUGH, PYLANT, RICHARD, SCHENK, SEABOUTH, SIMON, SMITH, STEFANSKI, STOKES, TALBOT, TURNER, AND ZERINGUE AND SENATORS ALARIO, BISHOP, BOUDREAU, CHABERT, CLAIBORNE, EDREY, FANNIN, GATTI, JOHNS, LONG, MARTINY, MILKOVICH, MORRELL, MRRISH, PEACOCK, RISER, GARY SMITH, TARVER, THOMPSON, AND WALSORTH

AN ACT

To amend and reenact R.S. 17:3217.1(A)(9) through (13) and 3394.3(C)(1)(j) and to enact R.S. 17:3217.1(A)(14) and 3233, relative to the Louisiana Community and Technical College System; to provide relative to the Northwest Louisiana Technical Community College; to provide with respect to the management, supervision, operation, name, and mission of the institution; to provide with respect to program offerings, student fees, and the awarding of certificates, diplomas, and degrees; to provide for the duties and responsibilities of the Board of Regents and the Board of Supervisors of Community and Technical Colleges; to provide relative to accreditation; to provide relative to financing of capital improvements for Delgado Community College; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

SECTION 1. R.S. 17:3217.1(A)(9) through (13) and 3394.3(C)(1)(j) are hereby amended to read as follows:

(9) Northwest Louisiana Technical Community College.
(10) River Parishes Community College.
(11) South Louisiana Community College.
(12) Sowela Technical Community College.
(13) All public postsecondary technical colleges which provide vocational-technical education.
(14) Any other community college, technical college, or other institution or program now or hereafter under the supervision and management of the Board of Supervisors of Community and Technical Colleges.

SECTION 2. R.S. 3233 is hereby added to read as follows:

(1) Northwest Louisiana Technical Community College; mission, management, and operation

A. The Northwest Louisiana Technical Community College is hereby renamed as the Northwest Louisiana Technical Community College and shall continue to serve as a multi-campus public postsecondary education institution. The institution and its programs shall remain under the supervision and management of the Board of Supervisors of Community and Technical Colleges, subject to the appropriate approval of and oversight by the Board of Regents.

B. An institution’s mission is hereby expanded to include providing a comprehensive educational program that meets the needs of the students and communities within its primary service delivery area. Such program may include career and technical education and training, workforce development training, adult basic education, continuing education, general education, associate degree programs, transfer degree programs, and other educational programs and opportunities.

C. The Northwest Louisiana Technical Community College may grant certificates, diplomas, associate degrees, and associate transfer degrees as authorized by the Board of Supervisors of Community and Technical Colleges and recognized by the regional accrediting body as recognized by the United States Department of Education.

D. The Board of Supervisors of Community and Technical Colleges and the Board of Regents shall work closely with the Northwest Louisiana Technical Community College and the appropriate accrediting body to ensure that the institution and all program offerings are fully accredited.

THE ADVOCATE

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As it appears in the enrolled bill
To amend and reenact R.S. 11:157(A)(c), to provide for membership verification; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article X, Section 29(C) of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:157(A)(c) is hereby amended and reenacted and R.S. 11:157(D)(1) is hereby enacted to read as follows:

§157. Firefighters’ Retirement System; Municipal Police Employees’ Retirement System; optional membership; refund of employee contributions; irrevocable election; reenrollment; membership verification information

A.(1) Notwithstanding any other provision of law to the contrary, any employee as defined in R.S. 11:2213 or 2252 who is employed by any municipality, parish, or fire protection district of this state employer as defined in R.S. 11:2213 or 2252 which has its employees covered under the federal Social Security program and which has not previously and specifically excluded its police officers or firefighters from coverage under this federal program; may elect not to be or elect not to become a member of either the applicable retirement system. Any member of either retirement system employee who elects not to be a member of the applicable retirement system shall be refunded his employee contributions which have been received by the system, without interest, for the period for which he contributed to the system.

(2) Notwithstanding any other provision of law to the contrary, any employee as defined in R.S. 11:2213 or 2252 who is employed by any municipality, parish, or fire protection district of this state employer as defined in R.S. 11:2213 or 2252 which has its employees covered under the federal Social Security program and which has not previously and specifically excluded its police officers or firefighters from coverage under this federal program; may elect not to be or elect not to become a member of either the applicable retirement system.

A. All of the following shall apply to any employee described in this Paragraph who elects not to be a member of the retirement system:

(i) Before such election can become valid, the employee shall execute and file with the retirement system, on or before September 30, 2019, an affidavit stating that his election not to be a member is of his own free will and is his own voluntary act and deed.

(ii) The employee shall not be eligible to join the retirement system while he is employed by the same employer or by any employer whose employees are covered under the federal Social Security program.

Any employee who returns to work with any employer whose employees are not covered under the federal Social Security program may not purchase credit for service for the period of time that he elected not to be a member pursuant to this Paragraph.

C. (1) Any member employee who elects not to become a member of either the applicable retirement system set forth in Subsection A of this Section shall, before such election can become valid, execute and file with the retirement system an affidavit stating that his election not to be a member is of his own free will and is his own voluntary act and deed.

(2) Any member employee who files such an affidavit shall not be eligible to rejoin the system while he is employed by the same municipality, parish, or fire protection district unless he repays his previously refunded employee contributions, within sixty days of reenrollment in the system, in one lump sum, plus interest at the board approved actuarial valuation rate in effect at the time of such repayment, calculated from the date of the refund until the date of repayment by the employer or by any other employer whose employees are covered under the federal Social Security program. An employee who returns to work with any other employer whose employees are not covered under the federal Social Security program may not purchase credit for service for the period of time that he elected not to be a member pursuant to Subsection A of this Section.
Paragraphs (A)(1) and (2) of this Section shall not apply to an immediate family member who lives in the household with the minor, or other relative who is supervised by the parent or legal custodian when visiting with the minor.

D. The provisions of Subparagraph (A)(1)(b) of this Section shall not apply to a conviction for operating a vehicle while intoxicated when the conviction is not appealed or two years have elapsed after all appeals are exhausted. The provisions of this Subsection shall not apply to a conviction for operating a vehicle while intoxicated.

E. The destruction of criminal records authorized by Subsection D of this Section shall not apply to a conviction for operating a vehicle while intoxicated when the conviction is not appealed or two years have elapsed after all appeals are exhausted. The provisions of this Subsection shall not apply to a conviction for operating a vehicle while intoxicated.

Approved by the Governor, June 11, 2019.

R. Kyle Ardoin
Secretary of State

ACT No. 291

HOUSE BILL NO. 74
BY REPRESENTATIVE TERRY LANDRY

To amend and reenact R.S. 14:73.1(12), (13), and (14), and to enact R.S. 14:73.1(15) and 73.11, relative to computer-related crimes; to create the crime of trespass against state computers; to provide for elements of the crime; to provide for criminal penalties; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:73.1(12), (13), and (14) are hereby amended and reenacted and R.S. 14:73.1(15) and 73.11 are hereby enacted to read as follows:

§73.11. Trespass against state computers

A. It is unlawful for any person to knowingly or intentionally access, or to exceed authorized access of a computer, computer server, computer program, computer service, computer software, internet-connected device, or computer system or program that is owned, operated, or utilized by the state of Louisiana, its contractors, or its political subdivisions, without authorization when it is done for any of the following purposes:

(1) Obtaining, seeking, utilizing, destroying, viewing, or affecting information that has been determined by the state of Louisiana to require protection against unauthorized disclosure for reasons of protecting public health, safety, welfare, or an ongoing law enforcement investigation.

(2) Willfully communicating, delivering, transmitting, or causing or threatening to communicate, deliver, or transmit information to any person not entitled to receive such information when the information has been determined by the state of Louisiana to require protection against unauthorized disclosure for reasons of protecting public health, safety, welfare, or an ongoing law enforcement investigation.

(3) Initiating a denial of service attack or introducing malicious or any type of destructive or harmful software or program that negatively affects...
To amend and reenact R.S. 56:8(16b), relative to hunting and recreational fishing licenses; to provide that honorable discharged veterans of the armed forces of the United States qualify as “bona fide residents” for purchase of such licenses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 56:8(16b) is hereby amended and reenacted to read as follows:

§8. Definitions

16. (b) For purchase of a license for hunting or recreational fishing activities where such license does not authorize any commercial activity, “bona fide resident” means the following:

(i) Any person who is a United States citizen and has resided in this state continuously during the six months immediately prior to the date on which he applies for any such license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated by compliance with items (a)(i) through (iv) of this Paragraph.

(ii) Any person who served in and was honorably discharged from the armed forces of the United States or a reserve component of the armed forces of the United States, including the National Guard, and who, if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license, or, if not licensed to drive, is in possession of a special identification card issued by the Department of Public Safety and Corrections under the provisions of R.S. 40:1321.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin  
Secretary of State

ACT No. 294

HOUSE BILL NO. 141  
BY REPRESENTATIVES HOWARD, ADAMS, ANDERS, BAGLEY, BERTHELOT, CHAD BROWN, TERRY BROWN, STEVE CARTER, GAINES, GISCLAIR, GUINN, LANCE HARRIS, HOFFMANN, HORTON, JACKSON, MIKE JOHNSON, ROBERT JOHNSON, JORDAN, MAGEE, MARINO, MCMHHEN, MIGUEZ, GREGORY MILLER, MOORE, JIM MORRIS, MOSS, PYLANT, AND SCHENXNAYDER

AN ACT

To amend and reenact R.S. 40:2405(2)(x) and 2405.8(G) and to enact R.S. 40:2402(3)(e) and 2405.8(H), relative to peace officer training requirements; to provide relative to certain peace officers; to provide for the creation of a motorcyclist profiling awareness training program; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2405(2)(x) and 2405.8(G) are hereby amended and reenacted and R.S. 40:2402(3)(e) and 2405.8(H) are hereby enacted to read as follows:

§2402. Definitions

As used in this Chapter:

(i) “Peace officer” shall also include security personnel employed by a court of appeal of the state of Louisiana.

(ii) “Peace officer” shall also include security personnel employed by a court of appeal of the state of Louisiana.

§2405. Peace officer training requirements; reimbursement by peace officer

B. * * * * * * *

(2) Certified security personnel of the Supreme Court of the state of Louisiana or of any court of appeal of the state shall not be eligible to receive supplemental pay benefits even though the peace officer has successfully completed a court-approved training program. The commission issued to court security personnel shall remain in force and in effect at the pleasure of the employing court.

§2405.8. Additional peace officer training requirements

G.1. The council shall include motorcyclist profiling awareness training in the current bias-recognition policing curriculum. The training shall consist of at least one-half hour of classroom or internet instruction, or a combination of classroom and internet instruction. This training shall address issues related to motorcyclist profiling and shall be provided to peace officers as defined in R.S. 40:2402(3)(e).

(2) For purposes of this Subsection, “motorcyclist profiling” shall mean the arbitrary use of the fact that an individual rides a motorcycle or wears motorcycle-related clothing or paraphernalia as a factor in deciding to stop, question, take enforcement action, arrest, or search the individual or his property.
motorcycle or motor vehicle.

(1) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on Judiciary B, for the implementation of a sexual assault awareness training program as provided in R.S. 17:1805(H) no later than July 1, 2014.

(2)(a) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program as provided in R.S. 17:1805(H) no later than October 1, 2015.

(b) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program for peace officers as defined in R.S. 40:2402(3)(a) as provided in Paragraph (C)(3) of this Section no later than January 1, 2017.

(3)(a) The council shall promulgate rules in accordance with the Administrative Procedure Act for implementation of the following training programs for peace officers as provided in Subsections E and F of this Section:

(i) Domestic violence awareness training.

(ii) Communication with deaf or hard of hearing individuals.

(b) The council shall create and maintain a list of peace officers who have successfully completed the domestic violence awareness training and the training on communication with deaf or hard of hearing individuals.

Approved by the Governor, June 11, 2019.

R. Kyle Ardoin
Secretary of State

ACT No. 295

HOUSE BILL NO. 157
BY REPRESENTATIVE STAGNI
AN ACT

To amend and reenact R.S. 32:402.1(E)(1), (2), (5), and (6) and to enact R.S. 32:402.1(E)(7) and (8), relative to Class “E” temporary instructional permits; to change when Class “E” temporary instructional permits are required; to provide for the design on Class “E” temporary instructional permits; to provide for the surrender of a Class “E” temporary instructional permit; to provide an exception to ignition interlock requirements for certain applicants for Class “E” temporary instructional permits; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:402.1(E)(1), (2), (5), and (6) are hereby amended and reenacted and R.S. 32:402.1(E)(7) and (8) are hereby enacted to read as follows:

E.(1) Any person who is at least of age to participate in the classroom instruction portion of a driver education course, driver training program, or a prelicensing training course shall apply to the department for a temporary instructional permit issued pursuant to this Section no later than January 1, 2018.

E.(2) A person shall be required to possess a Class “E” temporary instructional permit prior to enrolling in any driver education course, driver training program, or prelicensing training course in the administration of the knowledge test. The application for a Class “E” temporary instructional permit shall be in accordance with R.S. 32:409.1 and 410. The fee for a Class “E” temporary instructional permit shall be the same as the fee for a Class “E” driver’s license. The Class “E” temporary instructional permit issued pursuant to this Section shall contain a highly visible distinctive color or restriction code that clearly indicates the permit has been issued for the purpose of on-road driving skills instruction with a Department of Public Safety and Corrections certified driving instructor.

(2) A person shall be required to possess a Class “E” temporary instructional permit in order to enroll in any driver education course, driver training program, or prelicensing training course participate in the administration of the knowledge test, operate a motor vehicle during on-road driving skills instruction, or participate in the administration of an on-road driving skills test.

(5) Upon successful completion of a driver education course, driver training program, or prelicensing training course and the knowledge test, a person who is ineligible for a permanent license pursuant to R.S. 32:407, shall surrender a Class “E” temporary instructional permit issued pursuant to this Subsection to the department and apply for the issuance of a permanent license.

Approved by the Governor, June 11, 2019.

R. Kyle Ardoin
Secretary of State

ACT No. 296

HOUSE BILL NO. 162
BY REPRESENTATIVE CONNICK
AN ACT

To amend and reenact R.S. 14:43.2(A), (B)(1), and (C)(1) and (2), relative to sentencing of sex offenses; to provide relative to the sentencing of sex offenses for which medroxyprogesterone acetate may be administered to persons convicted of certain sex offenses; to add sexual battery of a victim under the age of thirteen to the list of offenses for which medroxyprogesterone acetate may be administered to the offender; to provide relative to medical evaluations of the offender conducted prior to treatment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:43.2(A), (B)(1), and (C)(1) and (2) are hereby amended and reenacted to read as follows:

§43.6. Administration of medroxyprogesterone acetate (MPA) to certain sex offenders

A. Notwithstanding any other provision of law to the contrary, upon a first conviction of R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.1(C)(2) (sexual battery when the victim is under the age of thirteen), R.S. 14:43.2 (second degree sexual battery), R.S. 14:43.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court may sentence the offender to be treated with medroxyprogesterone acetate (MPA), according to a schedule of administration monitored by the Department of Public Safety and Corrections.

B. (1) Notwithstanding any other provision of law to the contrary, upon a second or subsequent conviction of R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.1(C)(2) (sexual battery when the victim is under the age of thirteen), R.S. 14:43.2 (second degree sexual battery), R.S. 14:43.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court shall sentence the offender to be treated with medroxyprogesterone acetate (MPA) according to a schedule of administration monitored by the Department of Public Safety and Corrections.

C.(1) An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment under this Section shall be contingent upon a determination by a court appointed medical expert that the defendant is an appropriate candidate for treatment. The defendant shall pay for the treatment. Except as provided in Subparagraph (2)(b) of this Subsection, this determination shall be made not later than sixty days from the imposition of sentence. An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment shall specify the duration of treatment for a specific term of years, or in the
(2)(a) In all cases involving defendants sentenced to a period of incarceration or confinement in an institution, the administration of treatment with medroxyprogesterone acetate (MPA) shall commence not later than one year prior to the defendant's release from prison or such institution.
(b) When the provisions of this Paragraph apply, if the defendant is sentenced to incarceration or confinement for a period of time that is ten years or more, the commencement of the administration of treatment with medroxyprogesterone acetate (MPA) shall be contingent upon a medical evaluation to determine whether the defendant is an appropriate candidate for treatment. This evaluation shall be conducted not sooner than thirty days prior to the commencement of the administration of the treatment.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 297
---
HOUSE BILL NO. 163
BY REPRESENTATIVE CREWS
AN ACT
To amend and reenact R.S. 30:1104(B), relative to the storage of carbon dioxide; to provide for the responsibility of owners, shippers, or generators of carbon dioxide; to provide for the performance of actions required by the commissioner of conservation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:1104(B) is hereby amended and reenacted to read as follows:

§1104. Duties and powers of the commissioner; rules and regulations; permits

* * *

B. Only a storage operator as defined in R.S. 30:1103:10 shall be held or deemed responsible for the performance of any actions required by the commissioner under this Chapter. Unless that person is also the owner or operator of the facility or activity regulated under the provisions of this Chapter, the owner, shipper, or generator of carbon dioxide shall not be deemed responsible for the performance of any actions required by the commissioner under this Chapter.

* * *

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 298
---
HOUSE BILL NO. 185
BY REPRESENTATIVE HILFERTY AND SENATOR PEACOCK
AN ACT
To amend and reenact R.S. 15:642(2)(c) and (d), 643(A), and 645(A) and to enact R.S. 15:642(4), relative to a registry of certain offenses; to provide relative to the registry of persons convicted of offenses committed against peace officers; to expand the registry to include persons convicted of terrorism offenses; to expand the registry to include persons convicted of the conspiracy to commit terrorism offenses or offenses against a peace officer; to provide for the availability of certain registration information to law enforcement; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:642(2)(c) and (d), 643(A), and 645(A) are hereby amended and reenacted and R.S. 15:642(4) is hereby enacted to read as follows:

§642. Definitions

For the purposes of this Chapter, the following words have the following meanings ascribed to them:

* * *

(2) “Offense against a peace officer” means any of the following:

(a) Any of the following criminal offenses when the peace officer is engaged in the performance of his lawful duties, or when the specific intent to commit the offense is directly related to the victim's status as a peace officer:

   (i) Solicitation for murder
   (ii) First degree murder
   (iii) Second degree murder
   (iv) Manslaughter
   (v) Aggravated battery
   (vi) Second degree battery

   (vii) Aggravated second degree battery
   (viii) Second degree kidnapping
   (ix) Simple kidnapping
   (x) Extortion
   (xi) Assault by drive-by shooting
   (xii) Illegal use of weapons or dangerous instrumentalities
   (xiii) Terrorism
   (xiv) Aggravated assault with a firearm.

   (b) A conviction for the any offense under the laws of another state, or under any military, territorial, foreign, tribal, or federal law, that is equivalent to an offense provided for in this Section Paragraph.

   (c) 14:128.1, the crime of aiding others in terrorism as defined by R.S. 14:128.2, and equivalent to an offense provided for in this Section Paragraph.

   (d) A conviction for the Any offense under the laws of another state, or under any military, territorial, foreign, tribal, or federal law, that is equivalent to an offense provided for in this Section Paragraph.

§643. Registration of offenders who commit certain violent offenses against peace officers.

A. Any adult residing in this state who has pled guilty to, has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of, or for the conspiracy to commit any offense against a peace officer or any terrorism offense, as those terms are defined in R.S. 13:642, shall register within ten days of establishing residence in Louisiana, or if a current resident, within ten days after release from confinement with the sheriff of the parish of the person's residence and with the chief of police if the address of the residence is located in an incorporated area which has a police department. If the adult resides in a municipality with a population in excess of three hundred thousand persons, he shall register with the police department of his municipality of residence.

* * *

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 299
---
HOUSE BILL NO. 204
BY REPRESENTATIVE PIERRE AND SENATOR JOHNS
AN ACT
To amend and reenact R.S. 46:2626(F)(1)(introductory paragraph), (G)(1) and (5), (H)(1)(d), and (I)(7), relative to Medicaid provider fees; to provide relative to fees on emergency ground ambulance service providers for healthcare services funded by the state Medicaid program; to authorize the Louisiana Department of Health to levy and collect fees on nonpublic providers of emergency ground ambulance services for certain nonemergency transportation services; to provide conditions under which the department may assess such fees; to provide for reimbursement enhancements for providers of certain services subject to Medicaid provider fees; to provide for uses of funds from the Emergency Ground Ambulance Service Provider Trust Fund Account established by the state treasurer within the Louisiana Medical Assistance Trust Fund; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:2626(F)(1)(introductory paragraph), (G)(1) and (5), (H)(1)(d), and (I)(7) are hereby amended and reenacted to read as follows:

§2626. Fees on emergency ground ambulance service providers; disposition of fees

* * *

F. Notwithstanding any provision of this Section to the contrary, the department shall adopt and promulgate, pursuant to the Administrative Procedure Act and in compliance with Article VII, Section 10.14 of the Constitution of Louisiana, a fee to be imposed pursuant to Subsection A of this Section in accordance with all of the following:

(1) The department shall calculate, levy, and collect a fee from every emergency ground ambulance service provider on each emergency and nonemergency ground ambulance transport upon the occurrence of all of the following:

* * *

G. For each year in which the assessment is in effect, the department shall
(1) Reimbursement or payment to emergency ground ambulance service providers by any state or state-sponsored program, including but not limited to the Bayou Health Plans or their successors, at or above rates at the level which were in effect on July 1, 2015, for emergency and nonemergency transport and related services provided pursuant to the Louisiana medical assistance program provided that funds are appropriated in the budget.

(5) Funds from the Emergency Ground Ambulance Service Provider Trust Fund Account shall be used to achieve the maximum reimbursement under federal law and appropriated solely to fund the reimbursement enhancements provided for in Paragraph (4) of this Subsection as provided in the most recent formula adopted by the legislature or the secretary as applicable and distributed exclusively among emergency ground ambulance service providers for emergency and nonemergency ambulance transportation services provided.

H.1. No additional assessment shall be collected and any assessment shall be terminated for the remainder of the fiscal year from the date on which any of the following occur:

(d) The amount of the reimbursement for emergency and nonemergency ground ambulance services payable by any participant in the Bayou Health Plan or Medicaid managed care organization falls below one hundred percent of the Medicaid rate in effect at the time the service is rendered.

I. For purposes of this Section, the following definitions apply:

(7) “Net operating revenue” means the gross revenues of the emergency ground ambulance service provider for the provision of emergency and nonemergency ground ambulance transportation services, excluding any Medicaid reimbursements, less any deducted amounts for bad debts, charity care, and payer discounts.

Approved by the Governor, June 11, 2019.
A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 300

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HOUSE BILL NO. 214
BY REPRESENTATIVE JENKINS

AN ACT

To amend and reenact Code of Civil Procedure Article 5059(C)(2), relative to appeals of decisions by the Department of Environmental Quality and the Department of Insurance; to provide for the computation of the period of time to seek certain reviews or appeals of decisions by the Department of Environmental Quality and the Department of Insurance; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Article 5059(C)(2) is hereby amended and reenacted and Article 5059. Computation of time (c) is hereby amended and reenacted to read as follows:

(2) Subparagraph (1) of this Paragraph shall not apply to the computation of a period of time allowed or prescribed to seek rehearing, reconsideration, or judicial review or appeal of a decision or order by the Department of Revenue, the Department of Environmental Quality, the Department of Insurance relative to examination reports in R.S. 22:1965.

Approved by the Governor, June 11, 2019.
A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 301

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HOUSE BILL NO. 217
BY REPRESENTATIVE LEGER

AN ACT

To amend and reenact R.S. 32:387(C)(3)(d), (H)(2)(a), (b), and (c)(i) and (iv), and (J)(2), to enact R.S. 32:387(H)(2)(d), and to repeal R.S. 32:387(J)(3), relative to special permit fees; to provide with respect to the issuance of special permit fees; to increase the amount of the permit fees; to provide for the dedication of a certain portion of the fees; to provide for the application requirements for special permits; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

THE ADVOCATE

* As it appears in the enrolled bill

CODING: Words in italics are deletions from existing law; words underlined (House Bill) and double-underlined (Senate Bill) are additions.
To amend and reenact R.S. 26:90(A)(introductory paragraph) and (1)(a) and 286(A)(introductory paragraph) and (1)(a), relative to licensed retail dealers of alcoholic beverages; to provide licensed retail dealers of alcoholic beverages an alternative method of verifying age; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:90(A)(introductory paragraph) and (1)(a) and 286(A)(introductory paragraph) and (1)(a) are hereby amended and reenacted to read as follows:

§90. Acts prohibited on licensed premises; suspension or revocation of permits

A. No person holding a retail dealer’s permit, and no person permitted to sell alcoholic beverages at retail to consumers, and no agent, associate, employee, representative, or servant of any such person shall do or permit any of the following acts upon the licensed premises:

(1)(a) Sell or serve beverages of low-alcohol content to any person under the age of twenty-one years, unless such person submits any one of the following means of identification or a similar means of verification provided through use of a real-time age verification system authorized by the commissioner:

$850.00
$750.00 -- for all other structures.

$90. Acts prohibited on licensed premises; suspension or revocation of permits

C. The clerk of the city court, mayor’s court, or the marshal may accept payment by credit card or electronic check for all fines, forfeitures, penalties, and costs. The clerk of the city court, mayor’s court, or the marshal shall collect a fee for processing the payments in an amount that is reasonably related to the expense incurred by the clerk, mayor’s court, or marshal in processing the payment by credit card, not to exceed five percent of the amount of taxes and any penalties or interest being paid. The fee shall be in addition to the amount of fines, forfeitures, penalties, or costs.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State
(2) In calculating the aggregate Louisiana taxable incomes in cases where more than one loss year must be taken into account, the various net operating loss carryovers to such taxable year are considered to be applied in reduction of Louisiana net income in the order of the taxable years from which such losses are carried over, beginning with the loss for the most recent earliest taxable year.

Section 2. The provisions of this Act shall be applicable to all tax years beginning on and after January 1, 2020.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

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ACT No. 307

HOUSE BILL NO. 287
BY REPRESENTATIVE BILLIOT

To amend and reenact R.S. 28:55(E)(1) and 454.6(B), relative to the judicial commitment of persons; to require judicial notice upon such commitments during judicial hearings to be given to the Louisiana Department of Health; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 28:55(E)(1) and 454.6(B) are hereby amended and reenacted to read as follows:

§55. Judicial hearings * * *

E.(1) If the court finds by clear and convincing evidence that the respondent is dangerous to self or others or is gravely disabled, as a result of a substance-related or addictive disorder or mental illness, it shall render a judgment for his commitment.

B. If the court finds by clear and convincing evidence that the respondent has a developmental disability and is either dangerous to himself or dangerous to others, it may render a judgment for his commitment.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

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ACT No. 308

HOUSE BILL NO. 296
BY REPRESENTATIVE HOFFMANN

To amend and reenact R.S. 23:1036.1 and 454.6(B), relative to the judicial commitment of persons; to require judicial notice upon such commitments during judicial hearings to be given to the Louisiana Department of Health; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1036.1 and 454.6(B) are hereby amended and reenacted to read as follows:

§1036.1. Reserve police officers and deputies; coverage

A. Any reserve police officer or reserve deputy who volunteers for a law enforcement agency, municipal or parish, and performs law enforcement functions as an on-duty or off-duty reserve police officer and is injured in the line of duty may be entitled to medical benefits pursuant to R.S. 23:1203 if the municipality, parish, or public entity, in its own discretion and by using its own funds, elects to provide such coverage. Such benefits shall not be subject to a copayment, deductible, or any other method to shift the cost of compensable medical care to the injured reserve police officer or deputy.

B. No law enforcement agency shall provide indemnity benefits for the volunteer reserve police officer or deputy.

C. No law enforcement agency shall be liable for benefits under this Section for injuries occurring within the course of, or arising out of, the volunteer reserve officer or deputy’s other employment.

D. For the purposes of this Section, the following terms have the meaning ascribed to them:

(1) “Volunteer reserve police officer” means an individual who is carried on the membership list of the municipal organization as an active participant in the normal functions of the law enforcement organization and who receives nominal or no remuneration for his services.

(2) “Volunteer reserve deputy” means an individual who is a part-time, non-salaried, fully-commissioned law enforcement officer who is a volunteer of the parish organization.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

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The bureau shall ensure that Alzheimer’s and dementia training are incorporated within their education programs.

§2405.B. Additional peace officer training requirements

G. The council shall ensure that Alzheimer’s and dementia training are incorporated within their education programs.

H. (1) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a homicide investigator training program no later than July 1, 2016.

(2)(a) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program as provided in R.S. 17:1905(H) no later than October 1, 2015.

(b) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program for peace officers as defined in R.S. 40:2402(3)(a) as provided in Paragraph (C)(3) of this Section no later than January 1, 2017.

(3) The council shall promulgate rules in accordance with the Administrative Procedure Act for implementing the following training programs for peace officers as provided in Subsections E and F of this Section:

(i) Domestic violence awareness training.

(ii) Communication with deaf or hard of hearing individuals.

(4) The council shall create and maintain a list of peace officers who have successfully completed the domestic violence awareness training and the training on communication with deaf or hard of hearing individuals.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State
or imprisoned, with or without hard labor, for not more than five years, or both.

§122.2. Threatening a public official or law enforcement officer: penalties; definitions
(A) Threatening a public official or law enforcement officer is engaging in any verbal or written communication which threatens, or has the intent to influence or affect by threats or other means the conduct of a public official or law enforcement officer, which communicates a true threat to a public official or law enforcement officer.
(B) Except as provided in Subsection E, whoever commits the crime of threatening a public official or law enforcement officer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.
(C) Whoever commits the crime of threatening a public official with the intent to influence his conduct in relation to his position, employment, or official duty, or in retaliation against him for his previous action in relation to his position, employment, or official duty, shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.
(D) For the purposes of this Section, “public official” is defined as:
(1) “Public official” means any executive, ministerial, administrative, judicial, or legislative officer of the state of Louisiana.
(2) “Law enforcement officer” means any employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and who is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state.
(E) “True threats” occur when a person communicates a serious expression of an intent to commit an unlawful act of violence upon a person or group of persons.
(F) “Verbal or written communication” means any textual, visual, written, or oral communication, including communications made through social media.

Section 2. R.S. 38:2261 is hereby amended and reenacted to read as follows:

$2261. Preference for goods manufactured, or services performed, by individuals with disabilities in state-operated and state-supported sheltered workshops; competitive bidding requirements; coordinating council

A. Every agency, board, commission, department, or other instrumentality of the state shall give a preference to goods manufactured, or services performed, by individuals with severe disabilities in state-operated and state-supported sheltered workshops; definitions; coordinating council

The provisions of this Section shall not be construed to limit or otherwise affect the provisions of R.S. 23:3024 and 23:3025 regarding the sheltered industries program for individuals who are blind.

(1) “Direct labor” means all labor involved in the manufacture of goods or the performance of services except for supervision, instruction, administration, warehousing, and the provision of goods manufactured or services performed by individuals with disabilities shall have the meaning as defined in R.S. 39:1604.4(D).

(2) “Goods manufactured and services performed by individuals with severe disabilities” means goods and services for which not less than seventy-five percent (75%) of the man-hour requirements for manufacture or performance is provided by individuals with severe disabilities. "Individuals with disabilities" shall have the meaning as defined in R.S. 39:1604.4(D).

(3) “Individuals with severe disabilities” means individuals with a physical, mental, or substance abuse disability which constitutes a substantial obstacle to their employment and is of such a nature as to prevent an individual from engaging in normal competitive employment. "Supported employment provider" shall have the meaning as defined in R.S. 39:1604.4(D).

(4) “Qualified nonprofit agency for individuals with severe disabilities” means an agency that:
(a) Is incorporated under the Louisiana Nonprofit Corporation Law and operated in the interests of individuals with severe disabilities, and the income of which does not inure to whole or in part to the benefit of any shareholder or other private individual;
(b) Affiliated with a local or state governmental agency or agency of the national government, or its applicable occupational and health and safety standards provided by the states or of the United States;
(c) “Sheltered workshop” means a facility designed to provide gainful employment for individuals with severe disabilities who cannot be absorbed into the regular labor market, and who are not considered to be members of the general public, and who may be considered an escape under the provisions of R.S. 14:110. The department may approve as work release privileges, placement in universities, colleges, technical, vocational or trade schools, or in sheltered workshops or supported employment providers as defined in R.S. 39:1604.4, or in training programs designed to improve the skills and abilities of the inmate.

§111. Work release program

B. Each sheriff shall establish written rules for the administration of the work release program and shall determine those inmates who may participate in the release program, except that no inmate may participate in the program if his sentence so stipulates. Inmates sentenced to the Department of Corrections who are in the custody of the sheriff shall not be eligible for work release unless such inmates are in compliance with standards for work release within the department and written approval of the secretary of the department is obtained. If any inmate violates the conditions prescribed by the sheriff, his work release privileges may be withdrawn. Failure to report to or return from the planned employment shall be considered an escape under the provisions of R.S. 14:110. The department

§1111. Work release program

A. Every governmental body agency shall give a preference in its purchasing

THE ADVOCATE

As it appears in the enrolled bill

CODING: Words in *boldface* type are deletions from existing law, words in *underlined* (House Bills) and *scored* (Senate Bills) are additions.
practices to goods manufactured and services performed by individuals with severe disabilities in state operated and state supported sheltered workshops, through supported employment providers as defined in R.S. 39:1604.4, as provided in R.S. 47:305.38.

The provisions of this Section shall not be construed to limit or otherwise affect the provisions of R.S. 337.9(D)(17) as hereby amended and reenacted to read as follows:

§34. Corporation tax credit

(2) A “new economically disadvantaged employee” means an employee who is any of the following:

(d) where such status presents significant barriers to employment:

(1) a client of a sheltered workshop or a supported employment provider as defined in R.S. 39:1604.4; 

§287.749. Jobs credit

(2) A “new economically disadvantaged employee” means an employee who is any of the following:

(d) where such status presents significant barriers to employment:

(1) a client of a sheltered workshop or a supported employment provider as defined in R.S. 39:1604.4; 

§302. Imposition of tax

BB. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, beginning July 1, 2018, through June 30, 2023, any and all exemptions and no exclusions to the tax levied pursuant to the provisions of this Section, except for the retail sale, use, consumption, distribution, or storage for use or consumption of the following:

§305.38. Exclusions and exemptions; sheltered workshop or supported employment provider for persons with intellectual disabilities

The sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of each item or article of tangible personal property by a sheltered workshop or a supported employment provider as defined in R.S. 39:1604.4 for persons with intellectual disabilities licensed by the Department of Children and Family Services as a day developmental training center for persons with intellectual disabilities shall not be subject to the sales and use taxes levied by the state or by any political subdivision thereof.

§321. Imposition of tax

P. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, beginning July 1, 2018, through June 30, 2025, there shall be no exemptions and no exclusions to the tax levied pursuant to the provisions of this Section, except for the retail sale, use, consumption, distribution, or storage for use or consumption of the following:

§34. Corporation tax credit

(2) A “new economically disadvantaged employee” means an employee who is any of the following:

(d) where such status presents significant barriers to employment:

(1) a client of a sheltered workshop or a supported employment provider as defined in R.S. 39:1604.4; 

§287.749. Jobs credit

(2) A “new economically disadvantaged employee” means an employee who is any of the following:

(d) where such status presents significant barriers to employment:

(1) a client of a sheltered workshop or a supported employment provider as defined in R.S. 39:1604.4; 

§302. Imposition of tax

BB. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, beginning July 1, 2018, through June 30, 2023, any and all exemptions and no exclusions to the tax levied pursuant to the provisions of this Section, except for the retail sale, use, consumption, distribution, or storage for use or consumption of the following:

§305.38. Exclusions and exemptions; sheltered workshop or supported employment provider for persons with intellectual disabilities

THE ADVOCATE
A true copy: R. Kyle Ardoin
Secretary of State

ACT No. 313

BY REPRESENTATIVE MOSS

To amend and reenact R.S. 37:2405(A)(9) and to enact R.S. 37:2405(B)(15) and (D), relative to the Louisiana Physical Therapy Board; to provide for the powers, duties, and limitations of the board; to provide for the collection of a core set of data elements; to provide for the creation of a healthcare workforce database; to provide for agreements the board may enter into with private or public entities to maintain such database; to provide for reports of allegations of professional sexual misconduct; to provide for training of the board and staff members relative to mistreatment by licensees; and to provide for related matters.

Be enacted by the Legislature of Louisiana:

Section 1. R.S. 37:2405(A)(9) is hereby amended and reenacted and R.S. 37:2405(B)(15) and (D) are hereby enacted to read as follows:

§2405. Powers and duties of the board; limitation

A. The responsibility for enforcement of the provisions of this Chapter is hereby vested in the board, which shall have all the powers, duties, and authority specifically granted by or necessary for the enforcement of this Chapter, including:

* * *

9(a) Reporting annually to the governor and to the presiding officer of each house of the legislature on the condition of the practice of physical therapy in the state, making recommendations for improvement of the practice of physical therapy or the operation of the board, and submitting a record of the proceedings of the board during the year, together with the names of all physical therapists and physical therapist assistants to whom the board issued licenses during the year.

(b). The report shall also include the number of complaints received by the Physical Therapy Board regarding allegations of professional sexual misconduct and the status of each complaint.

B. The board may:

* * *

15. Determine and collect, at the time of new licensure and licensure renewal, a core set of data elements deemed necessary for the purpose of workforce planning. The data elements shall be used to create and maintain a healthcare workforce database. The board may enter into agreements with a private or public entity to establish and maintain the database, perform data analysis, and prepare reports concerning the physical therapy workforce. The board shall promulgate rules to perform duties pursuant to this Paragraph.

D. The Board shall:

1. Submit to a review of its disciplinary process and procedures by the state inspector general or by an independently qualified external auditor recommended by the state inspector general at least every five years.

2. Require training of all board members and staff members in effective communication with complainants, particularly members of vulnerable populations who allege mistreatment by licensees.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 314

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HOUSE BILL NO. 369

BY REPRESENTATIVE PIERRE

AN ACT

To enact Part XVII of Chapter 3 of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:691 through 694, relative to the trucking industry; to create the Louisiana Trucking Research and Education Council; to provide for the purpose, membership, and salary of the council; to provide for the rights and powers of the council; to authorize the collection and payment of a surcharge; to establish the Trucking Research and Education Council Fund Account as a special statutorily dedicated fund account in the state treasury; to provide for the purpose of the fund account; to provide for distributions from the fund account; and to provide for related matters.

Be enacted by the Legislature of Louisiana:

Section 1. Part XVII of Chapter 3 of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:691 through 694, is hereby enacted to read as follows:

PART XVII. LOUISIANA TRUCKING RESEARCH AND EDUCATION COUNCIL

§691. Louisiana Trucking Research and Education Council; purpose

The legislature recognizes that the Louisiana trucking industry faces many challenges, including but not limited to workforce development, highway safety, highway planning, and public education. The purpose of the Louisiana Trucking Research and Education Council is to promote education, training, research, and development for enhanced safety and efficiency within the industry.

§692. Creation; membership; salary

A. The Louisiana Trucking Research and Education Council, hereinafter referred to as the “council”, is hereby created as a political subdivision of the state with its domicile as Baton Rouge, Louisiana. The council is hereby declared to be a body corporate and public and shall be comprised of thirteen members to serve terms concurrent with the governor as follows:

1. The Louisiana Motor Transport Association, Incorporated shall submit the names of twelve trucking industry representatives and the governor shall appoint eight persons from those nominees.

2. The superintendent of the Louisiana State Police, or his designee.

3. The state superintendent of education, or his designee.

4. The president of the Louisiana Community and Technical College System, or his designee.

5. The council may designate any member or appoint any member for cause, including excessive absences from council meetings. If any council member is disqualified or resigns, the vacancy shall be filled by a majority vote of the council from a list of two names submitted by the Louisiana Motor Transport Association, Incorporated.

C. Council members shall not receive a salary for their services as members, but shall be reimbursed for actual travel expenses. The reimbursement shall be paid from funds available to the council.

D. The council shall establish rules and regulations for its own government and the administration of its affairs.

E. The council created by this Part shall be subject to the Public Records Law, R.S. 44:1 et seq., and the Open Meetings Law, R.S. 42:11 et seq., of the state.

§693. Jurisdiction; powers

The council may exercise powers necessary, pertinent, convenient, or incidental to carrying out its purposes, including but not limited to the following rights and powers:

1. To develop programs and projects that carry out the purpose of the council, including but not limited to enhancing safety and improving the public.

2. To provide for the payment of all council costs with funds collected pursuant to this Part.

3. To coordinate council activities with the industry associations and others, as appropriate, to provide efficient delivery of services and avoid unnecessary duplication of efforts and activities.

4. To contract with any public or private person, partnership, association, corporation, or other entity to carry out the purposes of the council.

5. To apply for, receive, and accept grants, loans, and contributions from any source of money, property, labor, or other things of value, to be held, used, and applied for the council’s purposes.

6. To enter into cooperative endeavor agreements with the LMTA Foundation, Inc., or its successor entity, a nonprofit corporation, for the use of staff and resources to carry out the powers and duties of the council.

§694. Surcharge assessment; collection

A. A surcharge shall be imposed and levied at the rate of fifteen dollars on every truck registrations issued pursuant to R.S. 47:511 and on all Class 1 and Class 2 registration fees for trucks and trailers in excess of 23,999 pounds, pursuant to R.S. 47:462(B)(3)(a), and shall be paid in addition to and simultaneous any annual registration or license tax, as provided in R.S. 47:511 and 462(B)(3)(a).

B. The surcharge shall be collected by the commissioner of the Department of Public Safety and Corrections, office of motor vehicles, at the issuance of any annual registration or license tax.

C. There is hereby created a statutorily dedicated fund account within the
Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1892(D) is hereby amended and reenacted to read as follows:

§11. Annual salary of assistant district attorneys payable by state
A. (1) Except as provided in Paragraph (2) of this Subsection, effective July 1, 2006, the annual salary of each of the several assistant district attorneys throughout the state of Louisiana, including the parish of Orleans, is hereby fixed at forty-five thousand dollars payable monthly by the state treasurer upon the warrant of each of the assistant district attorneys. Effective July 1, 2007, the annual salary of each of the several assistant district attorneys, throughout the state of Louisiana, including the parish of Orleans, is hereby fixed at forty thousand dollars payable monthly by the state treasurer upon the warrant of each of the assistant district attorneys. Effective July 1, 2008, the annual salary of each of the several assistant district attorneys, throughout the state of Louisiana, including the parish of Orleans, is hereby fixed at fifty thousand dollars payable monthly by the state treasurer upon the warrant of each of the assistant district attorneys. Any increase in salary shall be subject to an appropriation for that purpose.

D. (1) When making a payment incident to a claim, no insurer shall require that as a condition to such payment, repairs be made to a motor vehicle, including window glass repairs or replacement, in a particular place or shop; to provide limitations for insurers; to prohibit an insurer from requiring motor vehicle repairs be made in a particular place or shop; to provide for related matters.

(2) An insurer violating the provisions of this Subsection shall be fined not more than five hundred dollars for each offense.

(3) An insurer shall not engage in any act or practice of intimidation, coercion, or threat to use a specified place of business for repair and replacement services.

(4) The commissioner may levy the following fines against any insurer that violates this Subsection:
(a) For a first offense, one thousand dollars.
(b) For a second offense within a twelve-month period, two thousand five hundred dollars.
(c) For a third or subsequent offense within a twelve-month period, five thousand dollars.

D. (1) When making a payment incident to a claim, no insurer shall require that as a condition to such payment, repairs be made to a motor vehicle, including window glass repairs or replacement, in a particular place or shop; to provide limitations for insurers; to prohibit an insurer from requiring motor vehicle repairs be made in a particular place or shop; to provide for related matters.

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(2) An insurer violating the provisions of this Subsection shall be fined not more than five hundred dollars for each offense.

(3) An insurer shall not engage in any act or practice of intimidation, coercion, or threat to use a specified place of business for repair and replacement services.

(4) The commissioner may levy the following fines against any insurer that violates this Subsection:
(a) For a first offense, one thousand dollars.
(b) For a second offense within a twelve-month period, two thousand five hundred dollars.
(c) For a third or subsequent offense within a twelve-month period, five thousand dollars.
ACT No. 318
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BY REPRESENTATIVE TERRY BROWN

To amend and reenact R.S. 32:667(H)(3) and to enact R.S. 32:667(1)(5), relative to
driver's license reinstatement; to provide for the usage of the department's record
of arrests made for driving while intoxicated in determining whether a person should have their driver's license reinstated; and to provide for
related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:667(H)(3) is hereby amended and reenacted and R.S. 32:667(1)(5) is hereby enacted to read as follows:

§667. Seizure of license; circumstances; temporary license

H.

(3) Paragraph (1) of this Subsection shall not apply to a person who refuses to submit to an approved chemical test upon a second or subsequent arrest for
R.S. 14:96 or 98.1, or a parish or municipal ordinance that prohibits driving a motor vehicle while intoxicated. However, this Paragraph shall not
apply if the second or subsequent arrest occurs more than ten years after the prior arrest. The department's records of arrests made for operating a vehicle while intoxicated, as certified by the arresting officer pursuant to
R.S. 32:666(B), shall be used to determine the application of the provisions of this Paragraph. In the event the suspension arising out of such arrest has been reversed or recalled including any reversal or recall as a result of
an administrative hearing or judicial review, then that arrest related to that suspension shall not be used to determine if this Paragraph applies to a driver's license reinstatement.

I.

(5) The department's records of arrests made for operating a vehicle while intoxicated, as certified by the arresting officer pursuant to R.S. 32:666(B), shall be used to determine the application of the provisions of this Paragraph. In the event the suspension arising out of such arrest has been reversed or recalled, then that arrest related to that suspension shall not be used to determine if this Paragraph applies to a driver's license reinstatement.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

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ACT No. 319
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BY REPRESENTATIVE MAGEE AND SENATOR MILLS

To enact R.S. 46:460.51(15), 460.53, and 460.54, relative to the Louisiana Medical Assistance Program; to provide for a defined term; to provide a public notice
requirement; to provide for the implementation of a policy for the adoption of policies and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:460.51(15), 460.53, and 460.54 are hereby enacted to read as follows:

§460.51. Definitions

As used in this Part, the following terms have the meaning ascribed in this Section unless the context clearly indicates otherwise:

(15) “Policy or procedure” shall mean a requirement governing the administration of managed care organizations specific to billing guidelines, medical management and utilization review guidelines, case management guidelines, claims processing guidelines and edits, grievance and appeals procedures and process, other guidelines or manuals containing pertinent information related to operations and pre-processing claims, and core
benefits and services.

§460.53. Contract amendments; public notice

A. The department, prior to executing any amendment to a professional, personal, consulting, or social service contract that provides for managed
care under the Louisiana Medical Assistance Program through the use of a managed care organization, primary care case management, prepaid
inpatient health plan, or prepaid ambulatory health plan, all as defined in
42 C.F.R. 432.2, shall publish on a publicly accessible page of the department's website a copy of the entire proposed contract amendment and provide a public comment period of no less than thirty days.

B. If the department finds that an imminent peril to the public health, safety, or welfare requires immediate execution of a proposed contract amendment

without otherwise publishing the proposed contract amendment as required in Subsection A of this Section, the department may execute the proposed
contract amendment upon publishing a copy of the contract amendment and a written statement that details the reason for finding that an imminent peril
to the public health, safety, or welfare requires adoption of the executed
amendment.

§460.54. Medicaid policies and procedures; procedure for adoption

A. The department, prior to adopting, approving, amending or implementing any policy or procedure, shall publish the proposed policy or procedure on a publicly accessible page of the department's website for a period of no
less than forty-five days for the purpose of soliciting public comments. The proposed policy or procedure shall be published in a format to be determined by the department but shall include both the existing policy or procedure and the proposed policy and procedure, with the proposed language in the text
printed in boldface type and underscored. All present policy or procedure
language and punctuation which are to be deleted shall be struck through.

B. If the department finds that an imminent peril to the public health, safety, or welfare requires immediate adoption of a proposed policy or procedure

without otherwise publishing the proposed policy or procedure as required in Subsection A of this Section, the department may implement the proposed policy or procedure upon publishing a written statement that
details its reason for finding that an imminent peril to the public health, safety, or welfare requires adoption of the proposed policy or procedure and a copy of the policy or procedure.

C. The provisions of this Section shall not apply to any policy or procedure that is otherwise duly promulgated in accordance with the Administrative Procedure Act or included in a duly executed contract amendment.

D. The provisions of this Section shall not apply to any policy or procedure that

is otherwise duly promulgated in accordance with the Administrative Procedure Act or included in a duly executed contract amendment.

E. The department or a managed care organization shall be prohibited from enforcing any policy or procedure that is not adopted in compliance with this Section and any such policy or procedure shall be null and void and considered a violation of the public policy of this state.

F. If the managed care organization makes any policy or procedure change, the managed care organization shall submit the changes to the department for approval within the time specified by the department.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

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ACT No. 320
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BY REPRESENTATIVES HENRY, ABRAMSON, ADAMS, AMEDEE, BACALA, BARRAS, BILLIOT, BRASS, TERRY BROWN, CARMODY, ROBBY CARTER, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, DEVILLIER, DUBUISSON, DUPLESSIS, EDMONDS, EMERSON, GIsCLAIR, GUINN, LANCE HARRIS, HILL, JACKSON, JONES, NANCY LANDRY, LEBAS, LÉGER, LYONS, MARCELLE, MIGUEZ, MORE, POPE, SMITH, STEFANSKI, THOMAS, WHITE, AND ZERINGUE AND SENATOR GARY SMITH

To enact R.S. 13:844.1, relative to adoptions; to provide relative to adoption
fees; to provide a maximum amount of adoption fees for certain adoptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:844.1 is hereby enacted to read as follows:

§844.1 Fees; state agency adoptions

A. Notwithstanding any provisions of law to the contrary, the fee assessed by the clerk of court for the filing of a petition for a state agency adoption shall not exceed one hundred fifty dollars per petition.

B. For the purpose of this Section, “state agency adoption” means any adoption proceeding wherein the child or children to be adopted is in the legal custody of the Louisiana Department of Children and Family Services or the

corresponding department of any other state.

C. The fee to be assessed on behalf of the sheriff's offices for service of process of state agency adoptions shall not exceed thirty dollars per adoption petition.

D. Notwithstanding any provision of law to the contrary, all fees and costs authorized to be assessed or collected by the clerks of court, except fees and costs authorized by this Section, are hereby expressly waived in state agency adoptions.

Approved by the Governor, June 11, 2019.

A true copy:
R. Kyle Ardoin
Secretary of State

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To enact R.S. 33:423.28, relative to the Opelousas police department; to authorize the police chief to discipline police personnel; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article III, Section 13 of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:423.28 is hereby enacted to read as follows:

§423.28. City of Opelousas; authority over police personnel by chief of police

Notwithstanding the provisions of R.S. 33:423 or any other provision of law to the contrary, in and for the city of Opelousas, the chief of police shall discipline police personnel, including termination, subject to the budgetary limitations established by the mayor and board of alderman pertaining to the number of allotted positions for the police department.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

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To enact R.S. 9:5610, relative to civil liability for damages; to provide for peremption of actions for damages against real estate appraisers, appraisal management companies, and real estate appraisal companies; to provide for a prescriptive period for such actions; to provide for applicability; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:5610 is hereby enacted to read as follows:

§5610. Actions against real estate appraisers, appraisal management companies, and real estate appraisal companies; prescriptive and peremptive periods

A. No action for damages against any real estate appraiser or appraisal management company duly licensed under the laws of this state, or against any real estate appraisal company, whether based in tort, breach of contract, or otherwise arising out of an agreement to perform real estate appraisal services or appraisal management company services, shall be brought unless filed in a court of competent jurisdiction and proper venue within one year from the date of the act, omission, or neglect; or, within one year from the date that the alleged act, omission, or neglect is discovered or should have been discovered; however, even as to actions filed within one year from the date of such discovery, in all events such actions shall be filed at the latest within three years from the date of the act, omission, or neglect.

B. The provisions of this Section are remedial and apply to all causes of action without regard to the date when the alleged act, omission, or neglect occurred. However, with respect to any alleged act, omission, or neglect occurring prior to August 1, 2019, actions shall, in all events, be filed in a court of competent jurisdiction and proper venue on or before August 1, 2020, without regard to the date of discovery of the alleged act, omission, or neglect. The one-year period of limitation provided in Subsection A of this Section is prescriptive within the meaning of Civil Code Article 3447. The three-year period of limitation provided in Subsection A of this Section is a prescriptive period within the meaning of Civil Code Article 3458 and, in accordance with Civil Code Article 3461, may not be renounced, interrupted, or suspended.

C. Notwithstanding any other law to the contrary, the prescriptive and peremptive period in all actions brought in this state against any real estate appraiser, appraisal management company, or real estate appraisal company shall be governed exclusively by the provisions of this Section.

D. The prescriptive period provided in Subsection A of this Section shall not apply in cases of fraud, as defined in Civil Code Article 1953.

E. The prescriptive period provided in Subsection A of this Section shall not apply to any proceedings initiated by the Louisiana Real Estate Appraisers Board.

Section 2. This Act shall not affect any action filed prior to the effective date of this Act.

Section 3. This Act shall become effective January 1, 2020.

Approved by the Governor, June 1, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

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To amend and reenact R.S. 37:753(C)(2) and to enact R.S. 37:753(K), relative to the membership of the Louisiana State Board of Dentistry; to require that an appointee to an at-large seat on the board possess certain qualifications; to provide for filling of a vacancy in the at-large seat; to provide for a temporary appointment term; to provide for expanded membership of the board; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:753(C)(2) is hereby amended and reenacted and R.S. 37:753(K) is hereby enacted to read as follows:

* As it appears in the enrolled bill
§753. Louisiana State Board of Dentistry; appointment of members; term of office; vacancies; nominating meetings; quorum; domicile

C. Each member of the board shall be appointed by the governor as follows:

(2) Three dentists shall be appointed from the state at large to fill seats designated as “At-Large Seats A, B, and C” in accordance with the following requirements:

(a) One seat shall be designated as “At-Large Seat A” and shall be appointed from the state at large from a list of three licensed black dentists certified by the board secretary to the governor. The board secretary shall obtain a list of three nominees from the “At-Large Seat A” position and terminate, statement of claim or privilege, affidavits, and notice of pendency of action; to provide for cancellation and effectiveness of notice of contract and cancellation of statements of claims or privileges; to provide for the enforcement of claims and privileges; to provide for the reconciliation of accounts; to provide for the preservation and extinguishment of claims and privileges; to provide for the delivery and receipt of communications and other documents; to provide for proof of delivery of movables; to provide for notice for residential home improvements; to provide for redesignations; to provide for effectiveness and applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:4801(5), 4802(A)(5), (B), (C), and (F), 4803(A)(1) and (B), 4806, 4807(B), 4808(A), (B), (C), and (D)(1), 4811(A)(2), (B), and (D), 4812(A), (B), and (E)(1)(2), 4813(D) and (E), 4820, 4821, 4822, 4823(A), (B), (C), (E), and (F), 4831, 4832(A)(introduction paragraph) and (1) and (B)(introduction paragraph), and 4833(A), (B), (C), (E), 4834, 4835(A) and (C), the heading of Subpart F of Part I of Chapter 2 of Code Title XXI of Code Book III of Title 9 of the Louisiana Revised Statutes of 1950, 4841(A), (B), (C)(introduction paragraph) and (1), 4842, and 4846, and 4846 are hereby enacted to read as follows:

§4801. Improvement of immovable by owner; privileges securing the improvement of immovable by owner, privileg—and the general nature of the work to be performed by the subconsultant.

Comments - 2019

(a) This Section establishes privileges securing the owner’s contractual obligations to the persons named for amounts arising out of work done for the owner. The 2019 revision of the Private Works Act makes no substantive change in the categories of persons who are granted privileges under this Section. In each case, the obligations secured must arise out of a work and must be of the nature described with respect to each claimant.

(b) This Section presupposes a direct contractual relationship between the privilege holder and the owner. The reason that the privileges in favor of those professional subconsultants are provided in this Section, rather than in R.S. 9:4802, is that their work does not emanate from a contract between the owner and a contractor.

(c) Privileges arising under this Section, as well as those securing a claim granted by R.S. 9:4802, encumber the interest in an immovable by the owner who obligation is secured by the privilege. R.S. 9:4806(C).

The 2019 revision expands the definition of the term “immovable” for purposes of the Private Works Act to include not only land and buildings but also other constructions that are permanently attached to the ground, even those that are classified as movables under the Civil Code because they belong to something other than the owner of the ground. See R.S. 9:4810.

(d) Paragraph (1) must be read in conjunction with R.S. 9:4811(D), which in certain cases denies any privilege under the Private Works Act to a general contractor who does not cause notice of his contract to be properly and timely filed.

(e) Paragraph (2) contemplates that the obligations secured must be for the price of labor or services of a laborer or other employee. A contractor who renders personal services in the course of performing his contract is not included in this category. The owner is not liable to the contractor for the price of labor or services of a laborer or other employee.

Inc., 185 F. 3d 492 (5th Cir. 1999) (citing R.S. 9:4801 and Hebert, Thurman, and Heard in applying these principles to the Louisiana Oil Well Lien Act); and St. Mary’s Ins., Free Press Printers, Inc., 341 So. 2d 1151 (La. App. 3d Cir. 1981); Century National Bank v. Parent, 341 So. 2d 1371 (La. App. 4th Cir. 1977); and Tri-South Mortg. Investors v. Forest & Spring (La. 1981), 354 So. 2d 588 (La. App. 4th Cir. 1977)).

5. Prime consultant registered or certified surveyors or engineers, or licensed architects, or their professional subconsultants, employed Professional consultants engaged by the contractor or a subcontractor, and the professional subconsultants of those professional consultants, for the price of professional services rendered in connection with a work that is undertaken by the contractor or subcontractor.

A. A “professional consultant” means a registered or certified surveyor or engineer, or a licensed architect employed by the prime consultant.

B. The claims against the owner under this Section shall be secured by a privilege on the immovable on which the work is performed.

C. The owner is relieved of the claims against him under this Section and the privileges securing them when the claims arise from the performance of a work by a general contractor for whom a bond is given and maintained as required by R.S. 9:4812 and when notice of the contract with the bond attached is properly and timely filed as required by R.S. 9:4811.

F. A contractor shall indemnify the owner for claims arising from the work to be performed under the contract. A subcontractor shall indemnify the owner, the contractor, and any subcontractor from or through whom his rights are derived, for amounts paid by them for claims under this Part arising from work performed by the subcontractor. A contractor who pays the claims of other claimants arising from work performed under the contractor’s contract is legally subrogated to their contractual rights but not to the personal liability imposed upon the owner under this Section or the privileges securing them. A subcontractor who pays the claims of other claimants arising from work performed on behalf of the subcontractor is legally subrogated to their contractual rights but may not assert by subrogation their claims against the owner or contractor of the work upon which they worked. A contractor or subcontractor who discharges an obligation owed to a person holding a claim arising under this Section, under general rules of subrogation, a person who pays an obligation as to which a claim for payment has been made, such as to which a claim for payment has been made, such as a surety, is not thereby released from the personal liability imposed upon the owner under this Section and the privileges securing them when the claims arise from the performance of a work by a general contractor for whom a bond is given and maintained as required by R.S. 9:4812 and when notice of the contract with the bond attached, as provided in R.S. 9:4811(A). The filing of notice of contract and bond will not, however, affect the personal liability of the owner against a surety, or the personal liability of a surety against the contractor. The personal liability imposed upon the owner and that imposed upon the contractor are distinct and may be separately extinguished. See R.S. 9:4823. The liability that this Section imposes upon the contractor exists not only in favor of those in direct privity of contract with the contractor, but it may also be asserted in direct privity of contract with the contractor. While the extinguishment of the statutory liability of the contractor in the latter case will not relieve the contractor or his surety of their contractual liabilities, it may affect the personal liability of either against a surety, or the personal liability of a surety against the contractor. See R.S. 9:4813(B).

G. Prime consultant registered or certified surveyors or engineers, or licensed architects, or their professional subconsultants, employed Professional consultants engaged by the contractor or a subcontractor, and the professional subconsultants of those professional consultants, for the price of professional services rendered in connection with a work that is undertaken by the contractor or subcontractor.

A. A “professional consultant” means a registered or certified surveyor or engineer, or a licensed architect employed by the prime consultant.

B. The claims against the owner under this Section shall be secured by a privilege on the immovable on which the work is performed.

C. The owner is relieved of the claims against him under this Section and the privileges securing them when the claims arise from the performance of a work by a general contractor for whom a bond is given and maintained as required by R.S. 9:4812 and when notice of the contract with the bond attached is properly and timely filed as required by R.S. 9:4811.

F. A contractor shall indemnify the owner for claims arising from the work to be performed under the contract. A subcontractor shall indemnify the owner, the contractor, and any subcontractor from or through whom his rights are derived, for amounts paid by them for claims under this Part arising from work performed by the subcontractor. A contractor who pays the claims of other claimants arising from work performed under the contractor’s contract is legally subrogated to their contractual rights but not to the personal liability imposed upon the owner under this Section or the privileges securing them. A subcontractor who pays the claims of other claimants arising from work performed on behalf of the subcontractor is legally subrogated to their contractual rights but may not assert by subrogation their claims against the owner or contractor of the work upon which they worked. A contractor or subcontractor who discharges an obligation owed to a person holding a claim arising under this Section, under general rules of subrogation, a person who pays an obligation as to which he is the principal obligor cannot assert subrogation. See Civil Code Article 1829, Comment (d). Thus, as the Supreme Court held in Pringle-Associated
The immovable for use in a work. A movable shall be deemed not located at
the site of the immovable for use in a work after the occurrence of any of the
following:

(1) The work is substantially completed or abandoned.

(2) A notice of termination of the work is filed.

A. To be entitled to a claim arising under R.S. 9:4801(5) or a claim under R.S.
9:4802(A)(4), and the privilege granted by R.S. 9:4802 do not secure payment of:

(1) The principal amounts of the obligations described in R.S. 9:4801 and
9:4802(A), interest thereon, and fees paid for filing the statement required by R.S. 9:4802.

(2) A notice of termination of the work is filed; or

B. The subject to the additional limitations of amount contained in R.S.
9:4804(B). The claim or privilege granted the lessor of a movable by R.S. 9:4802(A)(5) or
9:4802(A)(4) is limited to and secures only that part of the movable which at the time
the movable is located at the site of the immovable for use in a work. A movable shall be deemed not located at
the site of the immovable for use in a work after the occurrence of any of the
following:

(1) The work is substantially completed or abandoned.

(2) A notice of termination of the work is filed.

The privileges granted by R.S. 9:4801 and the claims and privileges
granted by R.S. 9:4802 do not secure payment of attorney fees or other
expenses of litigation.

In determining if a professional consultant or professional subconsultant is a
juridical person, claims and privileges under this Part arise in favor of that
juridical person for amounts owed to it under this Section, and no claim or
privilege arises under this Part in favor of any surveyor, engineer, architect,
or other person that it employs.

Comments - 2019

(a) This Section is new. It gathers together and somewhat modifies notice
requirements that were formerly found in several other provisions of the
Private Works Act. In the case of some claimants, a notice must be given in order
for a claim or privilege to arise in the first instance. In the case of other claimants,
a claim or privilege is extinguished, in whole or in part, if a timely notice is not
given. A notice required under this Section must be given by one of the
methods specified in R.S. 9:4842 through 9:4845. It is not required to be filed in
the public records, and a filing in the public records will not satisfy the
requirement of notice.

(b) Subsection A carries forward, without substantive change, notice
requirements that were formerly found in several professional consultants and
subconsultants under R.S. 9:4801(5) and 4802(A)(5), except that no notice is
required to be given to an owner by a professional consultant who has a
direct contractual relationship with the owner.

(c) Subsection B substantially relaxes the rather onerous notice
requirements previously imposed upon lessors of movables used at the site
of an immovable. Under former R.S. 9:4802(G)(1), a lessor was required to
give notice, signed by both the lessor and lessee, to the owner and contractor
within ten days after the lessor’s movables were first placed at the site. A
failure to give notice within that ten-day period eliminated any privilege in
the lessee’s favor under either R.S. 9:4802(A)(4) or 4802(A)(4), not only for rent owed
with respect to the movables that were initially placed at the site but also for
rent owed for any other leased movables that were later used in the
construction of the project. See Hawk Field Servs., L.L.C. v. Mid Am. Underground,
L.L.C., 94 So. 3d 136 (La. App. 2d Cir. 2012), writ denied, 99 So. 3d 652 (La.
2012). This rule applied even when the owner was a party to the lease. Under
Paragraph (B)(1) of this Section, a lessor is required to give notice to the
owner and the contractor (if the contractor is not a party to the lease) in order
to be entitled to a claim and privilege under R.S. 9:4802(A)(4), but there is no
rigid deadline within which the lessor must do so. If, however, the notice is
given more than twenty days after the lessor’s movables are first placed at the
site, the claim and privilege of the lessor is limited to rents accruing after the
notice is given and no claim or privilege is extinguished.

(d) Notice is required to be given to a person who is a party to the
lease and who should therefore already be aware of its existence.

(e) The lessor’s notice must include a general description of the leased movables
but need not state the terms of the lease or identify the leased movables
specifically. For an owner or contractor who desires more specific information,
Paragraph (B)(2) introduces a mechanism by which an owner or contractor
can obtain a specific description of all leased movables which remain at the
site or for which rents remain owing.

In determining if a professional consultant or professional subconsultant is a
juridical person, claims and privileges under this Part arise in favor of that
juridical person rather than to the individual professionals that it employs.
Nevertheless, if an individual is not an employee of a professional consultant but is instead a
professional surveyor, professional engineer, or licensed architect engaged
as an independent contractor by the professional consultant, it employs.
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Nevertheless, if an individual is not an employee of a professional consultant but is instead a
professional surveyor, professional engineer, or licensed architect engaged
as an independent contractor by the professional consultant, it employs.
of the Public Works Act, R.S. 38:2242(F)). Subsection C clarifies that a failure to send a timely notice causes not only a loss of the seller's privilege but also the lessee's obligation to resolve the dispute with the claimant or contractor and to execute upon the lessee's rights and to any contractor who files a timely notice of contract, even though the scope of his work may be less than the entire construction project.

In such a case, the work to be performed by the contractor who timely files his notice of contract is deemed to be a separate work for purposes of the Private Works Act. See R.S. 9:4808(A).

Subsection C continues the former rule that the term “subcontractor” includes sub-subcontractors of any tier. Accordingly, sub-subcontractors are granted claims and privileges by R.S. 9:4802, as are those laborers who work for sub-subcontractors who sell or lease movables to them. See R.S. 9:4802(A)(1), (2), (3), and (4).

§4808. Work defined

A. A work is a single continuous project for the improvement, construction, erection, reconstruction, modification, repair, demolition, or other physical change of an immovable located in this state or its component parts.

B. If written notice of a contract with a proper bond attached is properly filed within the time required by R.S. 9:4811, the work to be performed under the contract shall be deemed to be a separate work and distinct from any other work described in this Subsection undertaken by the owner. The contractor, whose notice of contract is so filed, shall be deemed a general contractor.

C. The clearing, leveling, grading, test piling, cutting or removal of trees and debris, placing of fill dirt, leveling of the land surface, demolition of existing structures, or performance of other work on land for or by an owner or lessee, or the owner’s or lessee’s heirs or assigns, and for which the lessee or the owner is held liable under the provisions of the Private Works Act is much broader than the meaning ordinarily given to that term.

Anyone having the right to the use or enjoyment of an immovable can be an “owner” under the Act, even if his interest is not ownership and even if, as in the case of a lessee, he does not hold a real right in the immovable.

Subsection D makes general a principle that the text of the Private Works Act had formerly applied only to lessees: Where the responsible owner is a lessee or holder of a servitude, possessor, lessee, or other person owning or having the right to the use or enjoyment of an immovable or having an interest therein shall be deemed to be an owner under this Part.

B. The claims against an owner granted by R.S. 9:4802 are limited to the owner or owners who have contracted with the contractor or to the and to any owner or owners who have agreed in writing to the price and work of the contract of a lessee, wherein such owner or owners have specifically made by another owner and have expressly agreed in writing to be liable for any claims granted by the provisions of R.S. 9:4802. If more than one owner has contracted or expressly agreed in writing to be liable, each shall be solidly liable, until the claims have been satisfied.

C. The privilege granted by R.S. 9:4801 and 4802 affects only the interest in or on the immovable enjoyed by the owner whose obligation is secured by the privilege. If that owner is a lessee or holder of a servitude or other person owning or having an interest in the immovable, the privileges under those sections are subject to the will or to the interests of the lessor, and the privilege is inferior and subject to all rights of, and obligations owed to, that other person.

D. The privileges granted by this Part upon a lessee’s rights in the lease or by a servitude, and other construction shall be superior and subject to all rights of, and obligations owed to, the lessor, including the right of the lessor to resolve any performance of the lessee’s obligations, and to execute upon the lessee’s rights and to sell in satisfaction of the obligations free of the privileges under this Part. The privilege attaches under this Part to that portion of the sale proceeds remaining after satisfaction of the claims of the lessor.

E. The inclusion in a statement of claim or privilege of the name of an owner or holder of a servitude, possessor, or lessee, or other person owning or having an interest in an immovable shall not give rise to liability on the part of that owner or create a privilege upon that owner’s interest in the immovable.

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(a) Under Subsection A, the definition of an owner for purposes of the Private Works Act is much broader than the meaning ordinarily given to that term. Anyone having the right to the use or enjoyment of an immovable can be an “owner” under the Act, even if his interest is not ownership and even if, as in the case of a lessee, he does not hold a real right in the immovable. Such an owner having the interest in or on the immovable, or works on it for or by an owner or lessee, with the consent of the lessor, shall be deemed a general contractor.

(b) Subsection B continues the rule that privileges established by the Act encumber only the interest in the immovable enjoyed by the owner whose obligation is secured by the privilege. The last sentence of Subsection C makes general a principle stated in Subsection B of this Section, that a lessee’s obligation is secured by the privilege. If that owner is a lessee or holder of a servitude or other person owning or having an interest in the immovable, the privileges under those sections are subject to the will or to the interests of the lessor, and the privilege is inferior and subject to all rights of, and obligations owed to, that other person.

(c) Subsection D, which represents a specific application to leases of the general principle stated in Subsection C, recognizes that privileges arising under the Private Works Act encumber not only the lessee’s interest in the lease but also the lessee’s interest in buildings and other constructions. Subsection D makes general a principle that privileges under the provisions of the Private Works Act are secured by this Act, and are not secured by the Act of 1989, which was intended to provide a security interest in immovable personal property.

(d) Jurisprudence has held that the fact that a lease is unrecorded does not alter the rules of this Section or make the lessor responsible for claims arising out of a work contracted for the lessee. Cajun Constructors, Inc. v. EcoProduct Solutions, LP, 182 So. 3d 149 (La. App. 1st Cir. 2015).
a notice of termination may be filed and when the delays for filing statements of claim or privilege begin to run. See R.S. 9:4822.

(2) The owner accepts the improvement or possesses or occupies the immovable or that area of the immovable with respect to which a notice of termination is filed, although minor or inconsequential matters remain to be finished or minor defects or errors in the work are to be remedied.

§4809. Substantial completion and abandonment of work defined

A. A work is substantially completed when either of the following occurs:

(1) The last sentence of Subsection C is applicable even when those other constructions belong to a non-owner of the ground, that is, a tenant in possession of the property the owner has sold. See R.S. 9:4831(B).

So substantially interrelated as to constitute a single work is left to the determination of the courts in light of Subsection A.

This more expansive definition has several consequences. First, for those who are involved in the preliminary site work, the delays within which they must file a statement of claim or privilege will commence to run upon the substantial completion of the site work. Second, the plaintiff has no claims against others who are involved in the determination of the courts in light of Subsection A.

(c) Under Subsection B, if notice of contract with a contractor who would not otherwise be considered a general contractor is timely filed, the contractor is nonetheless deemed to be a general contractor, and the work to be performed under the contract is conclusively deemed to be a separate work, even though it may be part of a larger project being carried out by the owner. The 2019 revision to the Private Works Act removes the former requirement of the filing of a bond with the notice of contract in order to achieve this effect. Thus, where a notice of contract is timely filed, with or without a bond, issues such as the time for filing statements of claim or privilege arising from the work covered by the contract, the liability of the surety, and all other aspects of the Private Works Act, are determined independently of other work being carried out by the owner. On the other hand, where a notice of contract is not filed in a timely manner, the question of whether work done by several contractors, or partly by the owner himself and partly by contractors, is to be treated as constituting a single work is left to the determination of the courts in light of Subsection A.

(d) Subsection C considers preliminary site work to be in substance a separate work, unless it is performed by a contractor who is to construct a building or other improvement following the site work. This rule has important consequences. First, for those who are involved in the preliminary site work, the delays within which they must file a statement of claim or privilege will commence to run upon the substantial completion of the site work. Second, the plaintiff has no claims against others who are involved in the determination of the courts in light of Subsection A.

(e) The last sentence of Subsection C is an exception to R.S. 9:4820(A)(2). The 2019 revision removes a prior legislative amendment that had made Subsection C applicable even when several persons performing construction work would not otherwise be considered a general contractor is timely filed, the contractor is nonetheless deemed to be a general contractor, and the work to be performed under the contract is conclusively deemed to be a separate work, even though it may be part of a larger project being carried out by the owner. The 2019 revision to the Private Works Act removes the former requirement of the filing of a bond with the notice of contract in order to achieve this effect. Thus, where a notice of contract is timely filed, with or without a bond, issues such as the time for filing statements of claim or privilege arising from the work covered by the contract, the liability of the surety, and all other aspects of the Private Works Act, are determined independently of other work being carried out by the owner. On the other hand, where a notice of contract is not filed in a timely manner, the question of whether work done by several contractors, or partly by the owner himself and partly by contractors, is to be treated as constituting a single work is left to the determination of the courts in light of Subsection A.

(f) R.S. 9:4820(A)(2), which applies only when a notice of contract is not filed with respect to a work involving an existing building or other structure, provides that the suspension of work for thirty days or more cause that part against third persons, and accordingly its rank against mortgages, until the time of filing. See R.S. 9:4821(B).

(g) Subsection D avoids overlap with other statutes establishing claims and privileges on immovables under the Civil Code. Where those statutes apply, the Private Works Act is inapplicable.
claims and privileges afforded to professional consultants and professional subconsultants under the Private Works Act.

The contractor’s bond, as required by the Private Works Act to secure affidavits that work has not begun, see R.S. 9:4922(C) and 4832(C). Although the defined term is new, its use represents no change in the law, for its definition encompasses the same persons who were authorized to execute such affidavits under prior law.

§4811. WORK PERFORMED BY GENERAL CONTRACTORS. A. Notice of contract and bond required. Notice of a contract with a general contractor to be filed. A. Notice of contract to be performed shall be filed with the owner in accordance with the requirements of R.S. 9:4820 and, in the absence of proof to the contrary, the notice shall be prima facie proof of actual prejudice.

B. Notice of contract not properly filed. If a notice of contract is not improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

C. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

D. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

E. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

F. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

G. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

H. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

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J. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

K. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

L. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

M. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

N. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

O. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

P. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

Q. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

R. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

S. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

T. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

U. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

V. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

W. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

X. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

Y. Notice of contract improperly filed. If a notice of contract is improperly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.

Z. Notice of contract not properly filed. If a notice of contract is not properly filed because of an error in or omission from the notice of the absence of a showing of actual prejudice by a claimant or other person acquiring rights in the immovable, an error in or omission of the identity of the parties or their mailing addresses or the improper identification or insufficient description of the immovable shall be prima facie proof of actual prejudice.
surety would also be entitled to whatever indemnification its contract with
the contractor provides.
§4813. Liability of the surety

D. An action shall not be brought against a surety, other than by the owner,
before the expiration of the time specified in R.S. 9:4822 for claimants to file
statements of their claims or privileges, unless a statement of the claim or
privilege is filed within one year after the expiration of the time so specified,
which time is extended to one year after the filing by R.S. 9:4822 of claims
by persons each person who fails to institute an action asserting their
right, or privilege, as required by R.S. 9:4823(A), then the claimant's rights against
the expiration of one year after the filing of the statement so specified in R.S. 9:4822 for
their statement of claim or privilege.

E. A surety who pays a person to whom the surety is liable is legally
exhausted in the person's contractual rights but may not assert by subrogation
the surety's claims or privileges arising under this Part.

F. A privilege arising under this Part with respect to work performed
before the suspension, other than a privilege arising under R.S. 9:4810(2) or
privilege securing a claim arising under R.S. 9:4809(A)(2), retains its priority
over the rights of third persons pursuant to the resumption of work only if the claimant
having the privilege files a statement of claim or privilege no later than sixty days after the commencement of the
suspension.

G. A person acquiring or intending to acquire a mortgage, privilege, or other
right, or in or on an immovable may conclusively rely upon an affidavit made by
a registered or certified engineer or surveyor, licensed architect, or building
qualified inspector employed by the city or parish or by a lending institution
or mortgagee in good faith that the work was performed before a third person's rights become
effective as to third persons.

H. A surety who pays a person to whom the surety is liable is legally
exhausted in the person's contractual rights but may not assert by subrogation
the surety's claims or privileges arising under this Part.

I. The filing of a concursus joining a claimant and an owner or contractor
shall be responsible for any loss or damage suffered by anyone whose
rights are adversely affected.

J. A person acquiring or intending to acquire a mortgage, privilege, or other
right under Subsection C of this Section shall have priority in accordance
with R.S. 9:4821 over the rights of third persons acquired prior to the
resumption of work only if the claimant having the privilege files a statement of
claim or privilege no later than sixty days after the commencement of the
suspension.

K. The period during which a privilege arising under this Part is in force shall
be extended to the duration of the suspension or other work terminating the
duration of the suspension.  Paragraph (A)(2) states the criteria used to determine when work
has begun.  For these purposes, the "site of the immovable" is defined as the area within the boundaries of the property.  In determining
whether work has been begun or materials have been delivered, a professional subconsultant, or other surveyor, architect, or engineer, or the
placing of materials having an aggregate price of less than one hundred
dollars on the immovable should be considered.  For these purposes, the site of the
immovable is defined as the area within the boundaries of the property.
A is itself subject to exceptions found in other provisions of the Act. One such exception appears in Subsection D, which states, in relevant part: "the act was filed in accordance with their respective rank as to each other."

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(a) Subject to numerous exceptions provided by law, the general rule by which encumbrances upon immovables are ranked in Louisiana is that privileges, which rank among themselves according to their nature, outrank mortgages, which in turn outrank vendor’s privileges, and other privileges, even those that were effective as to third persons before the privilege granted by this Part becomes effective as to third persons. The relative ranking of those encumbrances among themselves is determined by R.S. 9:4800(1) and (2) rank next and equally with each other.

(b) Mortgages and vendor’s privileges rank among themselves in the order of their filing with respect to work performed before the suspension was filed in accordance with their respective rank as to each other. Privileges granted by R.S. 4800(1) and (5) rank next and equally with each other.

(c) Mortgages or vendor’s privileges rank next in accordance with their respective rank as to each other. Privileges granted by R.S. 4800(1) and (5) rank next and equally with each other.

(d) Subsection B, which continues a rule contained in the former provision, has been revised in order to state more clearly the effect of a temporary suspension on the rights of persons engaged in construction involving the resumption of work. The time that Private Works Act privileges become effective as to third persons is determined by R.S. 9:4808(C).

(e) Subsection C continues the concept that a mortgagee or other person intending to acquire a right in an immovable may conclusively rely upon the facts asserted in a timely filed affidavit from a qualified inspector that work has not yet begun. If the claimant chooses to do so, however, he runs the risk that his privilege will become subject to mortgages and other rights of third persons acquired prior to the suspension of work. The words “other construction” in Subsection B mean a construction other than a building and are not a general reference to all types of construction work.

(f) Subsection C both alters and clarifies prior provisions of the Private Works Act applicable to affidavits of no work. First, it provides that both the inspection and the filing of the affidavit must occur within four business days after, or within four business days after, the filing of the mortgage or other document creating the rights of the person obtaining the affidavit. This is intended to ensure that the facts recited in the affidavit are not unreasonably stale, while at the same time preventing parties from manufacturing evidence long after the fact. Second, it provides that if work has begun after the affidavit was filed, the affidavit is of no effect and a new affidavit must be filed. Third, the affidavit is of no effect if work has begun after the filing of the affidavit to the effect that work has not yet begun. Moreover, if notice of contract has already been filed, an affidavit to the effect that work has not yet begun will be of no effect. Fourth, the mortgagee’s priority under Private Works Act privileges arising out of that work, because those privileges will be effective against third persons under Subsection A as of the time of filing the notice of contract, irrespective of the fact that work has not yet begun, and will therefore have priority over mortgages filed after the notice of contract. See R.S. 9:4821(A)(2).

(g) Subsection E is new, though it restates without substantive change a rule previously found in former R.S. 9:4811(E). It specifies the effect of cancelling a notice of contract under R.S. 9:4832(C) and later refiling another notice of contract.

A. The privileges granted by R.S. 9:4800(1) and 9:4802 rank among themselves and to other mortgages and privileges in the following order of priority:

(1) Privileges granted by R.S. 9:4801(2) and those securing a claim arising under R.S. 9:4802(A)(2) are inferior to bona fide mortgages and vendor’s privileges that are effective as to third persons before the privilege granted by this Part becomes effective as to third persons.

(2) Each privilege granted by this Part other than those arising under R.S. 9:4801(2) and those securing a claim arising under R.S. 9:4802(A)(2) is inferior to bona fide mortgages and vendor’s privileges that are effective as to third persons before the privilege granted by this Part becomes effective as to third persons.

B. A person acquiring or intending to acquire a mortgage, privilege, or other right under R.S. 9:4800(1) shall have priority in accordance with the provisions of this Section, regardless of whether work has begun or materials have been delivered to the job site after the effective date and time of the affidavit, but prior to the recording of the mortgage, privilege, or other right provided that the document creating the right was filed before or within four business days of the filing of the affidavit. Except as otherwise provided in Subsection C of this Section, the privileges granted by this Part rank next and equally with each other.

C. A privilege under this Part that is superior to a mortgage or vendor’s privilege in accordance with Subsection A of this Section is also superior to all privileges under this Part that are inferior to the mortgage or vendor’s privilege.

D. A privilege under this Part encumbering a construction that is permanently attached to the ground and belongs to a person other than the landowner is superior to all conflicting security interests created under the Uniform Commercial Code. Privileges granted under this Part that are perfected before the privilege becomes effective as to third persons or that are perfected by a financing statement filed before the privilege becomes effective as to third persons, if there is no period thereafter when there is neither filing nor perfection.

E. A privilege under this Part encumbering a construction that is temporarily detached from the ground and belongs to a person other than the landowner is superior to all conflicting security interests created under the Uniform Commercial Code established after the privilege becomes effective as to third persons.
persons before commencement of work or filing of notice of contract.

(d) Subsection B ranks privileges arising under the Private Works Act among themselves. Highest ranking are those that are recorded in a mortgage, and if more than one mortgage is recorded, the second tier of ranking is shared by subcontractors, sellers, and lessors. Relegated to the lowest tier of ranking are contractors, professional consultants, and professional subcontractors.

(e) Subsection B makes explicit a concept that could be inferred from former R.S. 9:4802, but was expressly stated only in the Comments to that Section and to former R.S. 9:4808: Private Works Act privileges of the same nature rank equally, regardless of whether they arise from the same work or different works and regardless of the dates on which the privileges become effective as to third persons. The generality with which the Civil Code states that privileges are ranked by their nature, rather than by the order in which they arise or are filed, and that privileges of the same nature rank concurrently. See Civil Code Articles 3187 and 3188. Thus, with the exception stated in this subsection, subcontractors, sellers, and lessors all enjoy equal rank among themselves, even if they arise from different works and even if one of those works was completed before the other began.

(f) Subsection C is new. It is intended to reduce the possibility of circular priorities resulting from application of the ranking rules discussed above. Any system that ranks encumbrances by different criteria, such as by the nature of some but by the order of filing of others, implicitly permits the possibility of so-called “vicious circles.” This was possible under the former system, and it remains possible under the 2019 revision. For instance, if two different works are started and completed in two successive years, and a mortgage is filed after one work is completed but before the second work begins, a contractor’s privilege arising from the first work will prime the mortgage, which in turn will prime a subcontractor’s privilege arising from the second work, which will, by its nature, prime the contractor’s privilege arising from the first work. Such a system is intended to solve a problem that arises under these circumstances by breaking the vicious circle. The contractor’s privilege, which in this example unquestionably has priority over the intervening mortgage, is also granted priority over the privilege of the seller (or lessor) of materials on or before the substantial completion or abandonment of the work. See R.S. 9:4811(D) and 4822. Subsection C will not eliminate all vicious circles, and if one arises that cannot be resolved by application of Subsection C, the court will have to resolve the conflict. Subsection C supplies the proper distribution of proceeds of the immovable, such as application of the rule under Civil Code Article 3134 that creditors are entitled to share ratably in the proceeds of a debtor’s property in the absence of a preference authorized or established by law.

(g) Subsection D is new. It is necessitated by the definition of the term “immovable” in the 2019 revision of the Act to include not only land and buildings but also other constructions that are permanently attached to the ground, even when those other constructions belong to someone who is not the owner of the ground. See R.S. 9:4810(4). This definition of the term “immovable” will cause Private Works Act privileges to encumber those other constructions, despite their classification as movables under property law. Because they are movables, it is possible that they may be subject to security interests created and perfected under Chapter 9 of the Uniform Commercial Code, perhaps even by a filing in another jurisdiction. Subsection D supplies the needed ranking rule: A Private Works Act privilege is inferior to those conflicting Chapter 9 security interests that were perfected before the privilege became effective against third persons or that are later perfected by virtue of a statement that was filed before the privilege became effective against third persons. This allows Chapter 9 security interests to continue to benefit from the “first-to-file-or-perfect” priority rule that is generally applicable under Chapter 9. See R.S. 10:9-322(a)(1). The date of filing of the statement of claim or privilege prevailing under the Privilege Act is, however, irrelevant. A similar priority rule appears in the statute ranking Chapter 9 security interests against privileges for labor, services, or supplies provided in connection with oil, gas, and water wells. See R.S. 9:4870(I)(3).

4822. Preservation of claims and privileges.

A. Except as otherwise provided in Subsections B, C, and D of this Section, a person granted a privilege under R.S. 9:4801 or a claim and privilege under R.S. 9:4802 shall file a statement of his claim or privilege not later than sixty days after:

(1) The filing of a notice of termination of the work.

(2) The substantial completion or abandonment of the work, if a notice of termination is not filed.

(3) The contract with the general contractor has terminated.

B. If a notice of contract is properly and timely filed in the manner provided by R.S. 9:4811, the person or a person to whom a claim or privilege is granted by R.S. 9:4802 shall within thirty days after the filing of a notice of termination of the work file a statement of his claim or privilege and deliver to the owner, if his address is given in the notice of contract, a copy of the notice of termination of the work.

(1) File a statement of their claims or privilege. Thirty days after the filing of a notice of termination of the work.

(2) Deliver to the owner a copy of the statement of claim or privilege. If the claimant does not deliver the notice of contract, the claimant is not required to deliver a copy of his statement to the owner. Six months after the substantial completion or abandonment of the work, if a notice of termination is not filed.

P.S. A general contractor to whom a privilege is granted by R.S. 9:4801 of this Part, and whose privilege has been preserved in the manner provided by R.S. 9:4811, shall file a statement of his privilege within sixty days after the filing of a notice of termination or substantial completion of the work, no later than:

(1) Sixty days after the filing of a notice of termination of the work.

(2) Seven months after the substantial completion or abandonment of the work, if a notice of termination is not filed.

(3) Eight months after the substantial completion or abandonment of the work, if a notice of termination is not filed.

(4) Nine months after the substantial completion or abandonment of the work, if a notice of termination is not filed.

(5) The filing of a notice of termination of the work, if a notice of termination is not filed.

C. If prior to the filing or before the expiration of the period provided in Subsection A of this Section and at least ten days before filing his statement of claim or privilege a person has acquired rights in, to, or on the immovable before the statement of claim or privilege, this may be done by filing a statement of his claim or privilege and delivering a copy of that statement to the owner, if his address is given in the notice of contract. If the owner fails to do so, the general contractor may institute a summary proceeding against him for a judgment decreeing that the work has been satisfactorily completed and his claim or privilege has been preserved.

D. If before expiration of the period provided in Subsection A of this Section and at least ten days before filing his statement of claim or privilege a person has acquired rights in, to, or on the immovable before the statement of claim or privilege, he shall file a statement of his claim or privilege and delivery a copy of that statement to the owner, if his address is given in the notice of contract. If the owner fails to do so, the general contractor may institute a summary proceeding against him for a judgment decreeing that the work has been satisfactorily completed and his claim or privilege has been preserved.

E. A notice of termination of the work:

(1) Shall reasonably identify contain a complete property description of the immovable upon which the work was performed and the work to which it relates. If the work is evidenced by notice of a contract, reference to the notice of contract shall suffice. If the work is not evidenced by a contract, a claim and privilege may be preserved if a description of the immovable and the work to which it relates is provided, and if the description is correct. See R.S. 9:4802, in connection with a residential work for which a timely notice of contract was not filed gives notice of nonpayment to the owner, setting forth the amount and nature of the obligation giving rise to the claim and privilege, and then files a statement of his claim or privilege to preserve the privilege granted by R.S. 9:4801(D) expires sixty days after the latter of:

(2) The filing of a notice for termination of the work or

(3) The substantial completion or abandonment of the work, if a notice of termination is not filed.

(4) The filing of a notice for termination of the work or

(5) The substantial completion or abandonment of the work, if a notice of termination is not filed.

F. If before expiration of the period provided in Subsection A of this Section and at least ten days before filing his statement of claim or privilege a person has acquired rights in, to, or on the immovable before the statement of claim or privilege, he shall file a statement of his claim or privilege to preserve the privilege granted by R.S. 9:4801(D).

G. A notice of termination or substantial completion of the work shall within sixty days after:

(1) Sixty days after the filing of a notice of termination of the work.

(2) Seven months after the substantial completion or abandonment of the work, if a notice of termination is not filed.

(3) Eight months after the substantial completion or abandonment of the work, if a notice of termination is not filed.

(4) Nine months after the substantial completion or abandonment of the work, if a notice of termination is not filed.
A. A statement of a claim or privilege:

1. Shall be in writing.
2. Shall be signed by the person asserting the same or his representative.
3. Shall reasonably identify contain a reasonable identification of the immovable with respect to which the work was performed or movables or services were supplied or rendered and the owner or person to whom the contract was performed, material supplied, or services rendered. The provisions of this Paragraph shall not apply to a claim or privilege to the owner of the immovable being improved. If the owner's interest in the immovable does not appear of record, the statement of claim or privilege specifically states that the invoices are attached.

(5) If the owner does not do so and if the person fails to file a statement of claim or privilege within the period provided by this Section, the failure shall not extinguish the person's claim against the owner provided that an action for its enforcement is brought no later than one year after the expiration of the period. Nevertheless, the privilege arising in favor of the person under R.S. 9:4802(B) shall be extinguished by his failure to file a timely statement of claim or privilege, regardless of whether the owner has failed to give him notice when required under this Subsection.

K. If a person grants a claim and privilege under R.S. 9:4802 has given to an owner a notice complying with Subsection I of this Section, the owner shall notify that person within ten days after the substantial completion or abandonment of the work or the filing of notice of termination of the work. If the owner does not do so and if the person fails to file a statement of claim or privilege within the period provided by this Section, the failure shall not extinguish the person's claim against the owner granted by R.S. 9:4802(A), and the claim shall remain enforceable against the owner provided that an action for its enforcement is brought no later than one year after the expiration of the period. Nevertheless, the privilege arising in favor of the person under R.S. 9:4802(B) shall be extinguished by his failure to file a timely statement of claim or privilege, regardless of whether the owner has failed to give him notice when required under this Subsection.

J. Before any person having a direct contractual relationship with a subcontractor, but no contractual relationship with the contractor, shall have a right of action against the contractor or surety on the bond furnished pursuant to the provisions of the Public Works Act, the person shall give written notice to the contractor or surety within thirty days from the recordation of notice of termination of the work, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or for whom the labor or service was done or performed. Such notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office in the state of Louisiana.

L. A notice to whom a privilege is granted by R.S. 9:4802 may give notice to the owner of an obligation to that person arising out of the performance of work under the contract. The notice shall be given prior to:

(1) The filing of a notice of termination of the work.
(2) The substantial completion or abandonment of the work, if a notice of termination of the work is not filed.
(3) The filing of a notice of termination of the work.
(4) The substantial completion or abandonment of the work, if a notice of termination of the work is not filed.

Subsection within ten days of commencement of the period for preservation of claims and privileges shall be liable for all costs and attorney's fees for the defense thereof and enforcement of the claim or privilege.

Comments - 2019

(a) This Section establishes the procedure that persons having claims or privileges under the Private Works Act must follow in order to preserve those claims and privileges. The 2019 revision of this Section makes a number of substantive changes in the law.

(b) Subsection A provides the general rule describing the action that a person having a claim or privilege must take to preserve his claim and the time within which this action must be taken. Under Subsection A, the claimant must file a statement of his claim or privilege in the mortgage records no later than sixty days after the filing of a notice of termination of the work, or, if no notice of termination is filed, no later than sixty days after the substantial completion or abandonment of the work, and the time within which this action must be taken. Under Subsection A, the claimant must file a statement of his claim or privilege in the mortgage records no later than sixty days after the filing of a notice of termination of the work, or, if no notice of termination is filed, no later than sixty days after the substantial completion or abandonment of the work, and the time within which this action must be taken. Under Subsection A, the claimant must file a statement of his claim or privilege in the mortgage records no later than sixty days after the filing of a notice of termination of the work, or, if no notice of termination is filed, no later than sixty days after the substantial completion or abandonment of the work, and the time within which this action must be taken.
both stylistic and substantive changes in the former provision. A notice of termination, which is one of several documents that the Private Works Act allows for its filing by R.S. 9:4822. The failure to file an action against the owner at least ten days before filing a statement of his claim or privilege is delivered to the contractor within the period specified in Subsections A or B as to amounts owed from the owner for the enforcement of the claim or privilege within one year after filing the statement of claim or privilege to preserve it; or whether a contractor granted by R.S. 9:4802 is not extinguished by the failure to file a statement of claim or privilege as required by R.S. 9:4822 if a statement of termination of the work, the claimant’s failure to file a timely statement of termination when the contract with the general contractor terminates in the absence of default, such as a termination for convenience. The revision to Paragraph (D)(4) is discussed in the following Comment.

(8) Paragraph (D)(4) has been revised to provide that the conclusive presumption of correctness arising from the filing of a notice of termination is limited in its effect to the purposes of the Act itself. A unilateral statement made by an owner in a notice of termination that the general contractor defaulted, even if the statement is made in good faith, should not be given conclusive effect in litigation over that issue between the owner and general contractor.

(i) Subsection E is new. It provides a mechanism by which a general contractor can file a notice of termination following substantiation that the contractor is unable to continue to perform work or complete a specific geographic area. The filing of a notice of termination if work over a specific geographic area has been completed and the parties wish to be certain that all Private Works Act claimants have been paid for work performed on that geographic area. The filing of a notice of termination under Subsection E will not, however, truncate the filing periods applicable to claims and privileges arising before the notice of termination.

(j) The changes made to Subsection F are intended to restore the substance of the Subsection to its original meaning, while at the same time reversing the effect of a prior legislative change to Subsection F that purported to free the owner of record to own the immovable. Naming such a person in the statement of claim or privilege under Subsection F may instead identify the person who appears as the owner of the immovable as security for their claims, and unfairness potentially results when they are deprived without their consent of a portion - and perhaps the major portion - of this security during the course of a work.

(k) Subsection G specifies the information that is required to be contained in a claimant’s statement of claim or privilege. It largely continues existing law, including the rule that a statement of claim or privilege need contain only a reasonable identification of the immovable rather than a complete property description. A statement of the street address of the immovable without more is not a sufficient description. See Mercantile Nat. Bank of Dallas v. J. Thos. Dricesl, Inc., 195 So. 497 (La. 1940); Simms Hardin Co., LLC v. 3901 Ridgelake Drive, L.L.C., 119 So. 3d 58 (La. App. 5th Cir. 2013). Technical defects in the notice should not defeat the claim or privilege arising under R.S. 9:4822 if a statement of claim or privilege is delivered to the contractor within the period specified in Subsections A or B as to amounts owed from the owner for the enforcement of the claim or privilege within one year after filing the statement of claim or privilege to preserve it; or whether a contractor granted by R.S. 9:4802 is not extinguished by the failure to file a statement of claim or privilege as required by R.S. 9:4822 if a statement of termination of the work, the claimant’s failure to file a timely statement of termination when the contract with the general contractor terminates in the absence of default, such as a termination for convenience. The revision to Paragraph (D)(4) is discussed in the following Comment.

(9) Former Subsection H has been redesignated as R.S. 9:4858.

(10) Former Subsection I, which required a claimant not in privity of contract with a contractor to file a statement of claim or privilege as a prerequisite to the institution of an action for the enforcement of the same, is not effective as to third persons until the time of filing of the statement of claim or privilege now appears in R.S. 9:4820(D).

(E) A claim against the owner and the privilege securing it provided by R.S. 9:4820, or a claim against the contractor provided by R.S. 9:4802 is extinguished if any of the following occurs:

1. The claimant or holder of the privilege does not preserve it as required by R.S. 9:4822.

2. The claimant or holder of the privilege does not institute an action against the owner for the enforcement of the claim or privilege within one year after filing the statement of claim or privilege to preserve it.

3. The failure to file an action against the contractor or his surety, or the failure to file a statement of claim or privilege as required by R.S. 9:4822.

4. The extinguishment of a claim or privilege arising under this Part shall not affect other rights the claimant or privilege holder may have against the owner, the contractor, or the surety.

5. A claim against the owner and the privilege securing it granted by this Part are extinguished if a bond is filed by the contractor or subcontractor and a default by only the general contractor should be a basis for filing a statement of termination when the contract with the general contractor terminates in the absence of default, such as a termination for convenience. The revision to Paragraph (D)(4) is discussed in the following Comment.

(11) Subparagraph (D)(2) that an unpaid seller of movables sold for use in a residential work deliver notice of nonpayment within the period specified in Subsection F that purported to free the owner of record to own the immovable. Naming such a person in the statement of claim or privilege when the filing periods specified in Subsections A or B as to amounts owed from the owner for the enforcement of the claim or privilege within one year after filing the statement of claim or privilege to preserve it; or whether a contractor granted by R.S. 9:4802 is not extinguished by the failure to file a statement of claim or privilege as required by R.S. 9:4822 if a statement of termination of the work, the claimant’s failure to file a timely statement of termination when the contract with the general contractor terminates in the absence of default, such as a termination for convenience. The revision to Paragraph (D)(4) is discussed in the following Comment.

(12) Former Subsection J, which required a claimant not in privity of contract with a contractor to file a statement of claim or privilege as a prerequisite to the institution of an action for the enforcement of the same, is not effective as to third persons until the time of filing of the statement of claim or privilege now appears in R.S. 9:4820(D).

6. Former Subsection K has been redesignated as R.S. 9:4860(E).
Subsection B provides that the extinction of the claim against the owner with the notice of contract for purposes of R.S. 9:4835 does not extinguish the claim against the contractor, even if the contractor fails to preserve his privilege by filing a statement of claim within the time period provided by R.S. 9:4832(C), or if the general contractor forfeits his right to a privilege by failing to record notice of contract when required by R.S. 9:4811(D), the contractor nevertheless still has a contractual right to pursue the claimant against him. A claimant who fails to preserve his rights under the Private Works Act, but, however, entitled to recovery against the owner or contractor under a theory of unjust enrichment. See JP Mack Industries LLC v. Mosaic Fertilizer, LLC, 970 F. Supp. 2d 516 (E.D. La. 2013).

Although Subsections D and E refer to the filing of a surety bond, R.S. 9:4835 permits, instead of a bond, the deposit of funds to secure payment of the claim. In light of the provisions of R.S. 9:4835, authorizing the clerk to cancel the privileges upon the giving of such security, the term “bond” in this Section should be construed to include not only a surety bond but also the other forms of security permitted to be given by R.S. 9:4835 in lieu of a bond. As revised, Subsection E provides that a bond or other security posted by either a contractor or a subcontractor relieves the owner of liability for the claims.

SUBPART E. FILING; CANCELLATION; PEREMPTION
§4831. Filing; placing of filing; contents
A. The filing of a notice of contract, notice of termination, statement of a claim or privilege, affidavit, or notice of pendancy of action required or permitted under this Part shall be made by the person in whose favor the recordation or filing is to be made. A notice of contract, notice of termination, statement of a claim or privilege, affidavit, or notice of pendancy of action shall be filed with the recorder of mortgages for the parish in which the immovable is located. The recorder of mortgages shall immediately cancel a notice of contract or statement of claim or privilege if they are recorded by the owner or contractor and are not accompanied by a written concurrence or receipt of the contractor, but a statement of claim or privilege was filed within thirty days after the filing of the notice of termination of work performed under the contract if both of the following conditions are satisfied:

1. A statement of claim or privilege with respect to the work was not filed within thirty days after the filing of the notice of termination and the contractor did not file a statement of his claim or privilege within that time, or
2. The contractor did not file a statement of his claim or privilege within thirty days after the filing of the notice of termination of work performed under the contract.

B. If the request for cancellation of a notice of contract does not contain or is not accompanied by the written concurrence or receipt of the contractor, but a statement of claim or privilege was filed within thirty days after the filing of the notice of termination of work performed under the contract if both of the following conditions are satisfied:

1. A statement of claim or privilege with respect to the work was not filed within thirty days after the filing of the notice of termination and the contractor did not file a statement of his claim or privilege within that time, or
2. The contractor did not file a statement of his claim or privilege within thirty days after the filing of the notice of termination of work performed under the contract.

C. The recorder of mortgages shall immediately cancel a notice of contract if both of the following occur:

1. A request for cancellation of notice of contract signed by the owner and contractor is filed.

2. Within forty business days after the filing of the request for cancellation, an affidavit made by a qualified inspector is filed to the effect that he inspected the immovable at a specified time subsequent to the filing of the request for cancellation and that work was done on the immovable within the time period defined by R.S. 9:4820.

D. A notice of contract cancelled in accordance with Subsection C of this Section shall have no effect.

Comments - 2019
(a) Subsections A and B make no substantive change in the law. They provide for cancellation of the notice of contract following the filing of a notice of termination of work or the filing of a notice of pendancy of action required or permitted under this Part. The filing of a notice of contract or statement of a claim or privilege is timely filed but later erased the notice of contract could also be cancelled because the records would then not disclose any statement of claim or privilege filed within the applicable filing period. The erasure or cancellation of a statement of claim or privilege eliminates the statement from the records, and it should then be considered as having never been filed for purposes of cancellation of the notice of contract under this Section.

(b) Subsection C incorporates the substance of former R.S. 9:4838(E), which allowed prematurely or improvidently filed notices of contract to be cancelled without prejudice. The former provision contained an apparent error, however, in requiring that the affidavit of the inspector recite that work had not commenced as of a specified time subsequent to the filing of the notice of contract. As Subsection C provides, the critical moment in time is when the request for cancellation of notice of contract is filed, not the date of the notice of contract itself was filed. In order to prevent the effectiveness of a request for cancellation from being in question for an inordinately long period, Subsection C adopts the four-business-day limitation that applies to applications for cancellation of notice of contract.

(c) Subsection D provides that a notice of contract that is cancelled under Subsection C has no effect, and R.S. 9:4832(E) provides that the date of filing of a subsequent notice of contract is considered to be the date of filing of notice of contract for purposes of R.S. 9:4820(A)(1). This does not necessarily mean that Private Works Act privileges will take effect as to third persons from the date of filing of the second notice of contract. If, contrary to the factual allegations of the affidavit filed to obtain cancellation of the first notice of contract under Subsection C, work had in fact begun before the request was made for cancellation of that contract, or if work in fact begins at
any other time before the filing of the second notice of contract, the date that work actually began will be the date that Private Works Act privileges arises from work done on or after such date.

§4832. Request to cancel the inscription of claims and privileges; notice of pendency of action

A (1) If a statement of claim or privilege is improperly filed or if the claim or privilege preserved by the filing of a statement of claim or privilege is extinguished by either an owner or person other than the one whose name is shown in the recordation of the statement of claim or privilege, the owner or person who has filed a statement of claim or privilege to give a written request for cancellation in the manner provided by law directing the recorder of mortgages to cancel the statement of claim or privilege from his records. The recordation of the statement of claim or privilege must be reviewed by the person filing the request for it to be received by the person filing the statement of claim or privilege.

(2) If a statement of claim of privilege identifies an owner who is not liable for the claim under R.S. 9:4809(B), that owner or another interested person may require the person filing the statement of claim or privilege to give a written request for cancellation in the manner provided by law directing the recorder of mortgages to cancel the statement of claim or privilege from his records if it is received by the person filing the statement of claim or privilege.

B. One who, without reasonable cause, fails to deliver a written request for cancellation in proper form to cancel the claim or privilege as required by Subsection A of this Section shall be liable for damages suffered by the owner or person requesting the authorization as a consequence thereof and for reasonable attorney fees incurred in causing the statement to be cancelled.

C. A person who has properly requested a written request for cancellation shall have an action pursuant to R.S. 44:114 against the person required to deliver the written request to obtain a judgment declaring the claim or the privilege extinguished and directing the recorder of mortgages to cancel the statement of claim or privilege if the person required to give the written request fails or refuses to do so within the time required by Subsection A of this Section. If the written request for cancellation was requested under Paragraph (A)(2) of this Section, the judgment shall declare the statement of claim or privilege to be extinguished, and shall direct its cancellation, only if it affects that owner and his interest in the immovable. Cancellation of the statement of claim or privilege as to an owner in accordance with this Paragraph shall have no effect upon the person's privilege upon the interest of any other owner in the immovable or upon the person's rights against any other owner, contractor, or surety.

(3) A request for cancellation required under either Paragraph (1) or (2) of this Subsection shall be delivered within ten days after the written request for it is received by the person filing the statement of claim or privilege.

THE ADVOCATE

C. Any party person who files a bond or other security to guarantee payment of an obligation secured by a privilege in accordance with the provisions of Article 3045 of the present law of suretyship, a surety does not have the right to plead division or discussion is not intended to change the law. Under the present law of suretyship, a surety does not have the right to plead division or discussion, regardless of whether he is solidly bound. See Civil Code Article 3045.

D. Subsection B states the responsibility of the recorder and requires notation of his approval of the formal requisites of the bond before it will have the effect provided by R.S. 9:4823(D) and (E).

S U B S C R I P T I O N: DELIVERY OF COM municATIONS; B URDEN OF PROOF OF DELIVERY OF MOVABLES §4841. Enforcement of claims and privileges; concursus

A. After the period provided by R.S. 9:4822 for the filing of statements of claims or privileges has expired, the owner or any other interested person may convok a concursus and shall cite all persons who have preserved their claims against the owner or their privileges on the immovable, and shall cite the to establish the validity and rank of their claims and privileges. The owner, the contractor, and the surety shall also be cited if they are non-parties to the action concursus, the court shall direct the establishment of the validity and rank of the claims and privileges.

B. The owner who convokes or is made to a party to the concursus may deposit into the registry of the court the amounts owed by him to the contractor or surety.

C. The Upon motion of the owner, the court shall may by rule order the other parties to the action concursus to show cause why a judgment should not be entered dismissing and cancelling their claims and privileges or discharging the owner from further responsibility to them. The rule motion
shall be tried and appealed separately from the main cause of action as a summary proceeding and shall be limited to a consideration of the following matters:

(3) Whether a notice of the contract and a bond for the work were properly and timely filed as required by R.S. 9:4811 and R.S. 9:4812.

D.1. If the court determines that the owner has properly deposited all sums owed by him to the contractor; that the owner has compiled with this Part by properly and timely filing notice of a contract and bond as required by R.S. 9:4811 and R.S. 9:4812; and that the bond complies with the requirements of this Part, or if it finds that the claim is a claim or privilege under the provisions of R.S. 9:4844 or 4845, or any document required or permitted to be delivered by this Part shall be deemed to have been given or delivered in accordance with R.S. 9:4844 or 4845.

D.2. A suspensive or devolutive appeal may be taken as a matter of right from an order or judgment issued under Paragraph (1) of this Subsection.

E.1. If the surety who convokes a concursus proceeding shall deposit into the registry of the court an amount equal to the lesser of:

- (a) The full amount of the bond.
- (b) One hundred and twenty-five percent of the total amount claimed by persons who have filed a timely statement of claim or privilege for work arising out of the contract for which the bond is given.

E.2. A suspensive or devolutive appeal may be taken as a matter of right from an order or judgment entered against the owner, contractor, surety, or claimant with respect to a concursus proceeding. The fees awarded may be paid out of the funds deposited into the registry of the court but only after satisfaction of all valid claims and privileges.

Comments - 2019

(a) This Section and those that follow provide the means of delivering communications under the Private Works Act. It is the intent of this Section to establish a means of delivery of communication while at the same time fostering the reliability of communications and preserving the ability of a party to establish that a communication has been effectively delivered. This Section lays the foundation for those that follow: A communication is delivered when it is actually received, as provided in R.S. 9:4843, or when it is deemed given or delivered in accordance with R.S. 9:4844 or 4845.

(b) As this Section reflects, the words “give” and “deliver” are used synonymously with respect to communications prescribed by the various provisions of the Act, and the use of neither term is intended to imply a more exacting standard of communicating with the intended recipient. The term “communication” includes a notice.

§4843. Receipt of communications or documents

A communication or document is received when it comes into the possession of the person to whom it is sent or of a person authorized by him to receive it.

§4844. Delivery by mail or commercial courier

A communication or document may be addressed to an owner, contractor, surety, or claimant at the address given in a notice of contract or attached bond, and no address for notice has been designated as an address for notice in any previous communication given by the intended recipient to the sender with respect to the work.

D. If an address for an owner, contractor, or surety is not given in a filed notice of contract or attached bond, and no address for notice has been designated by the owner, contractor, or surety in a previous communication given by the intended recipient to the sender with respect to the work, the communication or document may be addressed to or at any other address held out by the owner, contractor, or surety as the place for receipt of communications related to the work.

E. If an address for a claimant is not given in a statement of claim or privilege, and no address for notice has been designated by the claimant in a previous communication to the sender with respect to the work, the communication or document may be addressed to the claimant at his place of business through which the contract with the claimant was made concerning the provision of labor, services, material, or equipment with respect to the work, or by the claimant at the place of receipt of communications related to the work.

F. As an alternative to any other address permitted by this Section, a communication or document may be addressed to a juridical person that is incorporated or organized under the laws of this state that has registered or obtained a certificate of authority to do business in this state, at the address of the person's registered office in Louisiana or at the address of its principal office, principal place of business, or principal business establishment in Louisiana, in each case as reflected on the records of the

THE ADVOCATE

* As it appears in the enrolled bill

C O D I N G : W o r d s  i n  s c o r e d ( H o u s e  B i l l s ) a n d  u n d e r s c o r e d  a n d  h o l d f a c e d ( S e n a t e  B i l l s ) a r e  a d d i t i o n s.
§4842. Notice

A. Prior to or at the time of entering into a contract for residential home improvements under the provisions of this Subpart, the contractor shall deliver to the owner or his authorized agent, for such owner’s or agent’s signature, written notice in substantially the following form:

NOTICE OF LIEN RIGHTS

Delivered this ______ day of ________, 20___, by ______________, Contractor.

I, the undersigned owner of residential property located at ________ (street address) ________ (city), ________ (parish) of ________ (state) of Louisiana, acknowledge that the aforementioned contractor has delivered this notice to me, the receipt of which is accepted, signifying my understanding that said contractor is about to begin improving my residential property according to the terms and conditions of a contract, and that in accordance with the provisions of law in Part I of Chapter 2 of Code Title XIX of the Revised Statutes of Louisiana, I, as owner, shall be liable to such subcontractors, materialmen, suppliers or laborers for any unpaid amounts due them pursuant to their timely filed claims to the same extent as is the hereinabove designated contractor.

I have read the above statement and fully understand its contents.

____________________________________

You may file a lien against your property for the payment in principal and interest of such work or labor performed, or the materials, machinery or fixtures furnished, and for the cost of repairing such equipment or machinery.

§4845. Delivery by electronic means

A communication or document required or permitted by this Part to be given or delivered shall be deemed to have been given or delivered when it is delivered by electronic means to a recipient who has consented to that method. This Subsection does not apply to documents related to a contract for delivery of movables. Delivery by electronic means is accomplished when any of the following occurs:

(1) The communication or document is sent by facsimile transmission to an address at which the recipient has consented to receive communications or documents related to the work, provided that the sender receives a facsimile confirmation of receipt.

(2) The communication or document is delivered to an electronic mail address at which the recipient has consented to receive communications or documents related to the work, provided that the sender receives an electronic confirmation of receipt.

(3) The communication or document enters an electronic information processing system designated or used by the recipient for purposes of receiving communications or documents related to the work, provided that the document is deemed to have been received by the recipient in accordance with R.S. 9:2615.

Comments - 1993

(a) This Section is new. It permits communications to be delivered electronically by facsimile transmission or electronic mail and, in Paragraph (3), recognizes all forms of electronic communication that are permitted under the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq. Paragraphs (1) and (2) of this Section supplement the Louisiana Uniform Electronic Transactions Act’s intent to limit the effectiveness of notices made in accordance with that Act.

(b) Both this Section and the Louisiana Uniform Electronic Transactions Act require the consent of the parties as a condition to the use of electronic communications. Consent may, however, be inferred from the context and surrounding circumstances, including the parties’ conduct. See R.S. 9:2605(B).
Art. 3249. Special privileges on immovables

Creditors who have a privilege on immovables are:

1. Those who have acquired a mortgage, unless the act or other evidence of the indebtedness originated after the enactment of this Act; provided, however, that, even if no notice of termination is filed, the general contractor shall in no event file a statement of claim or privilege within the time provided by R.S. 9:4822, as it existed immediately prior to the enactment of this Act; provided, however, that, even if no notice of termination is filed, the general contractor shall in no event file a statement of claim or privilege within the time provided by R.S. 9:4822, as amended by this Act.

2. Mazers who have acquired a privilege under R.S. 9:4801 or a claim and privilege under R.S. 9:4802 with respect to work shall file a statement of claim or privilege within the time provided by R.S. 9:4822, as amended by this Act.

3. Those who have supplied the owner or other person employed by the owner, his agent or subcontractor, with materials of any kind for the construction, improvement, or repair of such houses or other works. Those who are granted special privileges on immovables by legislation.

4. Those who have worked by the job in the manner directed by the law or by the regulations of the police, in making or repairing the levees, bridges, ditches, and roads of a proprietor, on the land over which levees, bridges, ditches and roads have been made or repaired.

Art. 3267. Special privileges on immovables and other privileges

If the movables immovable of the debtor are subject to the vendor's privilege or if there be a house or other work subjected to the vendor's privilege or if such house or other work shall be erected, provided that such lot of ground belongs to the person having the building, improvement or other work erected, and if such building, improvement or other work is caused to be erected by a lessee of the lot of ground, in that case the privilege shall exist only against the lease and shall have no effect against the owner.

Section 3.  Civil Code Articles 2772, 2773, 2774, 2775, 2776, 3268, and 3272 and R.S. 9:4802(G) and 4811E are hereby repealed in their entirety.

Section 7.  The Louisiana State Law Institute is hereby directed to transfer and redesignate R.S. 9:4814, 4815, and 4822(M) as Subpart I of Part I of Chapter 2 of Code Title XXI of Title 9 of the Louisiana Revised Statutes of 1950, entitled: MISAPPLICATION OF PROCEEDS; RETAINAGE. This redesignation is neither an amendment to nor a reenactment of these Sections.

Section 9. The amendments to R.S. 9:4821 shall be applied retroactively to all works, including those begun, and those for which notice of contract was filed, prior to January 1, 2020, except to the extent such application would cause the divestiture of vested rights.

Section 10. This Act does not affect an action, case, or proceeding commenced before January 1, 2020.

Approved by the Governor, June 11, 2019.

A true copy

R. Kyle Ardoin
Secretary of State

ACT No. 326

HOUSE BILL NO. 376
BY REPRESENTATIVE HUVAL

AN ACT

To amend the Code of Criminal Procedure Articles 817, 893.2, and 893.3(A), (B), (C), (D), and (E)(1)(a), relative to criminal sentencing; to provide for the imposition of a minimum penalty for a crime; to provide for the submission to jury of certain facts that increase the minimum penalty for a crime; to provide for the submission to the jury of the sentence imposed when a firearm is discharged, used, or actually possessed during the commission of certain offenses; to provide relative to the procedure for such determinations; to provide relative to the court's authority to consider certain evidence and hold a contradictory hearing in this regard; to provide that the determination of whether a firearm was discharged, used, or actually possessed during the commission of an offense is a specific finding of fact to be submitted to the jury; to provide relative to the burden of proof; to provide relative to the sentences imposed upon the determination being made; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1.  Article 893.2 of the Code of Criminal Procedure Articles 817, 893.2, and 893.3(A), (B), (C), (D), and (E)(1)(a) are hereby amended and reenacted to read as follows:

Art. 817. Qualifying verdicts

A. Except as provided in Paragraph B of this Article, any qualification of or addition to a verdict of guilty beyond a specification of the offense as to which the verdict is found, is without effect upon the finding.

B. Notwithstanding any other provision of law to the contrary, in addition to a specific finding of fact as to that issue, the following conclusions of law are hereby specified as additional to a verdict of guilty beyond a specification of the offense as to which the verdict is found, is without effect upon the finding:

C. Discharge, use, or possession of firearm in commission of a felony or a specifically enumerated misdemeanor; hearing submission to jury

D. If a motion was filed by the state in compliance with Article 893.1, the court may conduct a contradictory hearing following conviction to determine whether a firearm was discharged, used, or actually possessed during the commission of the felony or specifically enumerated misdemeanor, or actually possessed during the commission of a felony which is a crime of violence as defined by R.S. 14:2(B), felony theft, production, manufacturing, distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law, or specifically enumerated misdemeanor and whether the mandatory minimum sentencing provisions of Article 893.3 have been shown to be applicable. Such determination is a specific finding of fact to be submitted to the jury and proven by the state beyond a reasonable doubt.

E. The court may consider any evidence introduced at the trial on the merits, at defendant's guilty plea, or at the hearing of any motion filed in the case. The court may also consider any other relevant evidence presented
To amend and reenact R.S. 3:2438.1, relative to purse distribution; to provide for definitions; to provide for donation; to provide for thoroughbred race meetings; to provide for underpayment; to provide for quarter horse race meetings; to make technical changes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:2438.1 is hereby amended to read as follows:

§2438.1. Horse aftercare; definition

“Horse aftercare” means the providing for the retraining or retiring of thoroughbred or quarter horses that have participated at licensed race tracks in Louisiana.

Section 2. R.S. 4:183(B) is hereby amended and reenacted to read as follows:

§183. Contracts between licensees and permittees licensed to race horses at race meetings conducted in the state

B. (1) Monies due as purses to persons licensed to race horses at race meetings conducted in the state as a result of conditions outlined in Subsection A of this Section and the monies due to the Horsemen’s Benevolent and Protective Association pursuant to the provisions of Subparagraph (A)(4)(b) of this Section shall be allocated and distributed during the race meeting at which earned, including any donations by the association for horse aftercare as defined in R.S. 3:2438.1.

(2) In the event the amount distributed as purses to persons licensed to race horses at thoroughbred race meetings conducted in the state is less than the amount required by R.S. 4:183(A), this Section, and more than an amount equal to two times the average daily purse distribution at the thoroughbred race meeting at which generated, it shall be retained by the Horsemen’s Benevolent and Protective Association for further distribution to persons having earned monies during the meeting, in the direct proportion that the underpayment is to the monies earned by that person at that meeting. In the event the underpayment is less than an amount equal to two times the average daily purse distribution at the thoroughbred race meeting at which generated, it shall be retained by the Horsemen’s Benevolent and Protective Association for further distribution to persons having earned monies during the meeting, in the interest bearing account to be used for purses at the next thoroughbred meeting conducted by that association. Interest earned on the account shall be added to the purse paid over and above the amount required to be paid as purses by R.S. 4:183(A). This Section.

(3) Notwithstanding the provisions of Paragraph (2) of this Subsection, the provisions of this Paragraph shall apply only to thoroughbred race meetings at any facility subject to the provisions of R.S. 27:322.1(A). For such facilities, the overpayment shall be carried forward to the next race meeting conducted by the same association. It shall be carried on the association books as an asset.

C. (2) In the event the amount distributed as purses to persons licensed to race horses at thoroughbred race meetings conducted in the state is less than the amount required by R.S. 4:183(A), this Section, and more than an amount equal to two times the average daily purse distribution at the thoroughbred race meeting at which generated, it shall be retained by the Horsemen’s Benevolent and Protective Association for further distribution to persons having earned monies during the meeting, in the direct proportion that the underpayment is to the monies earned by that person at that meeting. In the event the underpayment is less than an amount equal to two times the average daily purse distribution at the thoroughbred race meeting at which generated, it shall be retained by the Horsemen’s Benevolent and Protective Association for further distribution to persons having earned monies during the meeting, in the interest bearing account to be used for purses at the next thoroughbred meeting conducted by that association. Interest earned on the account shall be added to the purse paid over and above the amount required to be paid as purses by R.S. 4:183(A) of this Section.
association in an interest bearing account to be used for purses at the next thoroughbred race meet conducted by that association. Interest earned on the account shall be added to the purse paid over and above the amount required to be paid as purses by Subsection A of this Section.

(4) In the event the amount distributed as purses to persons licensed to race horses at quarter horse race meetings conducted in the state is less than the amount required by this Section and more than an amount equal to two times the average daily purse distribution at the quarter horse race meeting at which generated, it shall be delivered to the Horsemen’s Benevolent and Protective Association for further distribution to persons having earned monies during the meeting, in the direct proportion that the underpayment was earned by that person. In the event the underpayment is less than an amount equal to two times the average daily purse distribution at that meeting, it shall be retained by the association in an interest bearing account to be used for purses at the next quarter horse race meet conducted by that association. Interest earned on the account shall be added to the purse paid over and above the amount required to be paid as purses by this Section.

(5) For the purposes of this Subsection, “average daily purse distribution” means all sources of funds available for use as a purse or purse supplement that are required by law to be distributed during a race meeting.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State


ACT No. 329
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HOUSE BILL NO. 406
BY REPRESENTATIVE IVEY

To enact R.S. 33:9097.30, relative to East Baton Rouge Parish; to create a crime prevention and improvement district; to provide for the governance of the district; to provide for the duties and powers of the district; to provide for the levy of a parcel fee within the district; and to provide for related matters.

Notice of intention to introduce this Act has been published as provided by Article III, Section 13 of the Constitution of Louisiana. The act is enabled by the Legislature of Louisiana:

- Section 1. R.S. 33:9097.30 is hereby enacted to read as follows:

§9097.30. Fairwood Crime Prevention and Improvement District

A. Creation. There is hereby created within the parish of East Baton Rouge, as more specifically provided in Subsection B of this Section, a body politic and corporate which shall be known as the Fairwood Crime Prevention and Improvement District, referred to in this Section as the “district”. The district shall be a political subdivision of the state as defined in the Constitution of Louisiana.

B. Boundaries. The boundaries of the district shall be coterminous with the subdivisions of the Country Ridge, Fairwood Estates, and Sherrwood Manor subdivisions in East Baton Rouge Parish as established by the official subdivision plats thereof filed with the clerk of court of East Baton Rouge Parish.

C. Purpose. The purpose of the district shall be to aid in crime prevention, to enhance security within the district, to provide for an increase in security patrols in the district, and to promote and encourage the beautification and overall betterment of the district.

The district shall be governed by a five-member board of commissioners, referred to in this Section as the “board”. The board shall be composed as follows:

(a) The board of directors of the Country Ridge Homeowners Association shall appoint one member.

(b) The board of directors of the Fairwood Estates Homeowners Association shall appoint one member.

(c) The board of directors of the Sherwood Manor Homeowners Association shall appoint one member.

(d) The member of the Louisiana House of Representatives whose district encompasses all or the greater portion of the area of the district shall appoint one member.

(e) The member of the Louisiana Senate whose district encompasses all or the greater portion of the area of the district shall appoint one member.

(2) All members of the board shall own property and reside within the district and shall be qualified voters of the district.

(3)(a) Members shall serve four-year terms after initial terms as provided in this Subparagraph. Two members shall serve an initial term of one year; two shall serve two years; one shall serve four years, as determined by lot at the first meeting of the board.

(b) Members shall be eligible for reappointment.

(4) Any vacancy in the membership of the board shall be filled in the manner of the original appointment. If the appointing authority responsible for the appointment of a member fails to fill a vacancy within thirty days, the remaining members of the board may appoint an interim successor to serve until the position is filled by the appointing authority.

(5) The board shall elect from its members a chairman, a vice chairman, a secretary, a treasurer, and such other officers as it deems necessary. The duties of the officers shall be fixed by the bylaws adopted by the board. Members of the board shall serve without compensation but shall be reimbursed for reasonable out-of-pocket expenses directly related to the governance of the district, not to exceed one hundred dollars per year.

(7) The board shall keep minutes of all meetings and shall make them available through the secretary of the board. The minutes books and archives shall be maintained by the secretary of the board. The receipts, funds, and accounts of the district shall be in the official custody of the board.

(8) The board shall adopt such rules and regulations as it deems necessary or advisable for conducting its business affairs. The board shall hold open regular meetings and such other meetings as the board deems advisable for conducting its business affairs.

(9) The domicile of the board shall be in East Baton Rouge Parish.

E. Powers and Duties. The district, acting through its board, shall have the following powers and duties:

(1) To sue and be sued.

(2) To adopt, use, and alter at will a corporate seal.

(3) To receive and expend funds collected pursuant to Subsections F and G of this Section and in accordance with a budget adopted as provided by Subsection H of this Section.

(4) To enter into contracts with individuals or entities, private or public.

(5) To provide or enhance security patrols in the district, to provide for improved lighting, signage, or matters relating to the security of the district, to provide for the beautification of, and improvement to, the district, and to provide generally for the overall betterment of the district.

(6) To enter into contracts and agreements with one or more other districts for the joint security improvement, or betterment of all participating districts.

(7) To provide for such services and make such expenditures as the board deems necessary to carry out the purposes of the district.

(8) To acquire or lease items and supplies which the board deems proper to carry out the purposes of the district.

(9) To procure and maintain liability insurance against any personal or legal liability of a member that may be asserted or incurred based upon service as a member of the board or that may arise as a result of actions taken within the scope and discharge of duties as a member of the board.

(10) To perform or have performed any other function or activity necessary or appropriate to carry out the purposes of the district or for the overall betterment of the district.

F. Parcel fee. The governing authority of the district may impose and collect a parcel fee within the district subject to and in accordance with the provisions of this Subsection.

(a) The amount of the parcel fee shall be as provided in a duly adopted resolution of the board. The fee shall be a flat fee per parcel of land not to exceed one hundred dollars per year for residential parcels and five hundred dollars per year for commercial parcels. The initial fee imposed on each residential parcel during the first calendar year shall not exceed forty dollars. The initial fee imposed on each commercial parcel during the first calendar year shall not exceed two hundred dollars.

(b) The board may increase the fees one time during each subsequent calendar year not to exceed the district’s portion of the amounts of the fees imposed during the previous calendar year; however, the amounts of the fees shall not exceed the maximum amounts authorized in Subparagraph (a) of this Paragraph.

(c) No fee may be imposed or increased pursuant to the provisions of this Subsection unless the question of its imposition and the board’s authority to increase the fee has been approved by a majority of the registered voters of the district who vote on the proposition at an election held for that purpose in accordance with the Louisiana Election Code.

(2) The fee collected by the district and the board’s authority to increase the fee shall expire in fifteen years, but the fee and the board’s authority to increase the fee may be renewed if approved by a majority of the registered voters of the district voting on the proposition as provided in Subparagraph (c) of this Paragraph.

(3) The fee shall be collected at the time and in the same manner as ad valorem taxes are collected for East Baton Rouge Parish. The tax collector shall impose the fee and the board’s authority to increase the fee is renewed, the term of the imposition of the fee shall be as provided in the authorization prohibiting such renewal, not to exceed fifteen years.

(4) The fee shall be collected at the time and in the same manner as ad valorem taxes are collected for East Baton Rouge Parish. The tax collector shall impose the fee and the board’s authority to increase the fee is renewed, the term of the imposition of the fee shall be as provided in the authorization prohibiting such renewal, not to exceed fifteen years.

(5) The fee shall be collected at the time and in the same manner as ad valorem taxes are collected for East Baton Rouge Parish. The tax collector shall impose the fee and the board’s authority to increase the fee is renewed, the term of the imposition of the fee shall be as provided in the authorization prohibiting such renewal, not to exceed fifteen years.

(6) The fee shall be collected at the time and in the same manner as ad valorem taxes are collected for East Baton Rouge Parish. The tax collector shall impose the fee and the board’s authority to increase the fee is renewed, the term of the imposition of the fee shall be as provided in the authorization prohibiting such renewal, not to exceed fifteen years.

(7) The fee shall be collected at the time and in the same manner as ad valorem taxes are collected for East Baton Rouge Parish. The tax collector shall impose the fee and the board’s authority to increase the fee is renewed, the term of the imposition of the fee shall be as provided in the authorization prohibiting such renewal, not to exceed fifteen years.

(8) The fee shall be collected at the time and in the same manner as ad valorem taxes are collected for East Baton Rouge Parish. The tax collector shall impose the fee and the board’s authority to increase the fee is renewed, the term of the imposition of the fee shall be as provided in the authorization prohibiting such renewal, not to exceed fifteen years.

G. Additional contributions. The district may solicit, accept, and expend additional voluntary contributions and grants to carry out the purposes of the district.
§460.71. Claim payment information

A. (1) If the claim for payment is denied in whole or in part by the managed care organization or by a fiscal agent or intermediary of the organization, and the denial is remitted in the standard paper format, then the organization shall, in addition to providing all information required by Subsection A of this Section, include a claim denial reason code specific to each CPT code listed that matches or is equivalent to a code used by the state or its fiscal intermediary for the fee-for-service Medicaid program. If the claim is denied by the managed care organization based upon an opinion or interpretation by the managed care organization of a law, regulation, policy, procedure, or medical criteria or guideline, then the managed care organization shall provide with the remittance advice either instructions for accessing the applicable law, regulation, policy, procedure, or medical criteria or guideline in the public domain or an actual copy of that law, regulation, policy, procedure, or medical criteria or guideline.

B. (1) If the claim for payment is denied in whole or in part by the managed care organization or by a fiscal agent or intermediary of the plan, and the denial is remitted electronically, then the organization shall, in addition to providing all information required by Subsection A of this Section, include an American National Standards Institute compliant reason code with the remittance advice in the electronic format. If the claim is denied by the managed care organization based upon an opinion or interpretation by the managed care organization of a law, regulation, policy, procedure, or medical criteria or guideline, then the managed care organization shall provide with the remittance advice either instructions for accessing the applicable law, regulation, policy, procedure, or medical criteria or guideline in the public domain or an actual copy of that law, regulation, policy, procedure, or medical criteria or guideline.

* * *

The act or omission, misrepresentation, misappropriation, failure to disclose, or any act or omission arising out of the performance of his duties as a board member or officer of the district shall not be individually liable for any act or omission arising out of the performance of his duties as a board member or officer of the district.

J. Indemnification and exculpation. (1) The district shall indemnify its officers and board members to the fullest extent permitted by R.S. 12:222, as fully as if the district was a nonprofit corporation governed thereby, and as any may be provided in the district's bylaws.

(2) No board member or officer of the district shall be liable to the district or to any individual who resides, owns property, visits, or otherwise conducts business in the district for monetary damages for breach of his duties as a board member or officer, provided that the foregoing provision shall not be construed to eliminate or limit the liability of a board member or officer for:

(a) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

(b) Any transaction from which he or she derived an improper personal benefit.

K. To the fullest extent permitted by R.S. 9:2792 et seq., including R.S. 9:2792.1 through 2792.9, a person serving the district as a board member or officer shall not be individually liable for any act or omission arising out of the performance of his duties as a board member or officer of the district.

L. Section 1. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the date following such approval.

Approved by the Governor, June 11, 2019.

R. Kyle Ardoin
Secretary of State

ACT No. 330

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BY REPRESENTATIVE STAGNI AND SENATOR PEACOCK

AN ACT

To amend and reenact R.S. 46:460.71(C) and to enact R.S. 46:460.51(15) and 460.74, relative to the medical assistance program of this state known commonly as Medicaid; to provide requirements for Medicaid managed care organizations relative to the distribution of information on denied claims and to providers, and to providers, and to healthcare providers; to provide for notices by Medicaid managed care organizations to healthcare providers concerning prior authorization requirements; to require Medicaid managed care organizations and the Louisiana Department of Health to take certain actions pursuant to denial of prior authorization requests by healthcare providers; to require publication of certain information relative to prior authorization requirements on the websites of Medicaid managed care organizations and the Louisiana Department of Health; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:460.71(C) is hereby amended and reenacted and R.S. 46:460.51(15) and 460.74 are hereby enacted to read as follows:

§460.51. Definitions

As used in this Part, the following terms have the meaning ascribed in this Section unless the context clearly indicates otherwise:

(15) “Prior authorization denial” means any situation in which the department or a managed care organization does not fully approve of services or items being requested by a healthcare provider, including any situation in which a service or item other than the exact service or item requested is approved. Prior authorization denials include but are not limited to situations in which a service has been requested for a period of time and is approved for a shorter period of time, fewer hours of a service than requested are approved, or a different service or item from that requested is approved. Prior authorization denials also include but are not limited to situations in which previously approved services are being terminated, reduced or when the department or contractor approves the requested item or service, but sets the amount to be reimbursed lower than the amount requested.

§460.71. Claim payment information

* As it appears in the enrolled bill

THE ADVOCATE

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* * *

C.(1) If the claim for payment is denied in whole or in part by the managed care organization or by a fiscal agent or intermediary of the organization, and the denial is remitted in the standard paper format, then the organization shall, in addition to providing all information required by Subsection A of this Section, include a claim denial reason code specific to each CPT code listed that matches or is equivalent to a code used by the state or its fiscal intermediary for the fee-for-service Medicaid program. If the claim is denied by the managed care organization based upon an opinion or interpretation by the managed care organization of a law, regulation, policy, procedure, or medical criteria or guideline, then the managed care organization shall provide with the remittance advice either instructions for accessing the applicable law, regulation, policy, procedure, or medical criteria or guideline in the public domain or an actual copy of that law, regulation, policy, procedure, or medical criteria or guideline.

B.(1) Notwithstanding any other provision of law to the contrary, after

* * *
Section 2. R.S.40:1046(H)(b)(a) is hereby amended and reenacted to read as
follows:

§1046. Recommendation of marijuana for therapeutic use; rules and
regulations; Louisiana Board of Pharmacy and the adoption of rules and
regulations relating to the dispensing of recommended marijuana for
therapeutic use; the Department of Agriculture and Forestry and the licensure
of a production facility

H.  *   *   *   *

(8)(a) The department shall perform the following:
(i) Establish and collect an annual license fee of one hundred thousand
dollars and an annual permit fee of one hundred dollars for administrative
and inspection costs.
(ii) Collect a nonrefundable application fee of ten thousand dollars.
(iii) Receive an amount not to exceed seven percent of the gross sales. Assess
a fee of seven percent of the gross sales of therapeutic marijuana that shall be
collected by the Department of Revenue and shall be subject to the provisions
of Chapter 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
1950 as amended. Notwithstanding the provisions of Subparagraph (b) of this
Paragraph, the Department of Revenue shall transfer monthly to the state
treasury for deposit into the Community and Family Support System Fund, as
established in R.S. 28:461 et seq., the amount of revenues collected in
accordance with this Item. An amount shall be allocated to the department,
pursuant to legislative appropriation, for regulatory, administrative, investigative,
enforcement, legal, and other such expenses as may be necessary to carry
out the provisions of this Chapter and for activities associated with the
enforcement of law and regulations governing the therapeutic marijuana
program.

H.  *   *   *   *

(8)(a) The department shall perform the following:
(i) Establish and collect an annual license fee of one hundred thousand
dollars and an annual permit fee of one hundred dollars for administrative
and inspection costs.
(ii) Collect a nonrefundable application fee of ten thousand dollars.
(iii) Receive an amount not to exceed seven percent of the gross sales. Assess
a fee of seven percent of the gross sales of therapeutic marijuana that shall be
collected by the Department of Revenue and shall be subject to the provisions
of this Chapter and for activities associated with the enforcement of law and
regulations governing the therapeutic marijuana program.

C. Additions. The following items are declared allowable as deductions in
the computation of net income and shall be added to the deductions allowed
under federal law to the extent not already included therein:

(1) Expenses that would otherwise be deductible under federal law but
for the provisions of 26 U.S.C. 280E, for a licensee of this state pursuant to
Part E. Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, as
amended, related to the production or dispensing of marijuana recommended
for therapeutic use by patients clinically diagnosed as suffering from a
debilitating medical condition as defined in R.S. 40:1046.

(4) Expenses disallowed by I.R.C. Section 280C. Expenses which
that would otherwise be deductible under federal law, but for the
disallowance provisions of I.R.C. Section 280C, relative to certain expenses for which credits are allowable.

§301. Definitions
As used in this Chapter the following words, terms, and phrases have the
meanings ascribed to them in this Section, unless the context clearly indicates a
different meaning:

(10)  *   *   *   *

(111) Sales of marijuana recommended for therapeutic use as provided in
R.S. 47:301(10)(i).

§321. Imposition of tax

P. Notwithstanding any other provision of law to the contrary, including
but not limited to any contrary provisions of this Chapter, beginning July 1,
2018, through June 30, 2025, there shall be no exemptions and no exclusions to
the tax levied pursuant to the provisions of this Section, except for the retail
sale, use, consumption, distribution, or storage for use or consumption of the
following:

(111) Sales of marijuana recommended for therapeutic use as provided in
R.S. 47:301(10)(i).

§331. Imposition of tax

V. Notwithstanding any other provision of law to the contrary, including
but not limited to any contrary provisions of this Chapter, beginning July 1,
2018, through June 30, 2025, there shall be no exemptions and no exclusions to
the tax levied pursuant to the provisions of this Section, except for the retail
sale, use, consumption, distribution, or storage for use or consumption of the
following:

(111) Sales of marijuana recommended for therapeutic use as provided in
R.S. 47:301(10)(i).

Section 5. The provisions of this Act shall become effective on July 1, 2019.

Approved by the Governor, June 11, 2019.

A true copy

R. Kyle Ardoin
Secretary of State

* As it appears in the enrolled bill

CODING: Words in [ ] are deletions from existing law; words underlined and underscored and boldfaced (Senate Bill) are additions.
To enact R.S. 40:1203.1(3)(z), 2006(A)(2)(s), (B)(2)(j), and (E)(2)(x), and Part VI-G of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2180.21 through 2180.28, relative to free-standing birth centers; to provide for definitions; to provide for licensing; to provide for rules and regulations; to provide for licensing fees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1203.1(3)(z), 2006(A)(2)(s), (B)(2)(j), and (E)(2)(x), and Part VI-G of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2180.21 through 2180.28, are hereby enacted to read as follows:

§2180.21. Short Title

This Part shall be known and may be cited as the “Free-Standing Birth Center Licensing Law”.

§2180.22. Purpose

The purpose of this Part is to authorize the Louisiana Department of Health to promulgate and publish rules and regulations for the licensing of free-standing birth centers; to provide for the health, safety, welfare, and well-being of persons receiving services at free-standing birth centers; and to provide for the safe operation and maintenance of free-standing birth centers.

§2180.23. Definitions

For the purposes of this Part, the following terms shall have the following meanings:

(1) “Department” means the Louisiana Department of Health or any agency or office thereof designated by the secretary to administer the provisions of this Part.

(2) “Free-standing birth center” means a facility, place, center, agency, person, institution, corporation, partnership, unincorporated association, group, or other legal entity which provides free-standing birth center services and at which a person is anticipated to give birth following a low-risk pregnancy.

(3) “Employer” means any of the following facilities, agencies, providers, or programs:

(a) A free-standing birth center, as defined in R.S. 40:2180.23.

(b) This Subsection shall apply to any licensed:

(i) Free-standing birth center.

(ii) Any person, institution, corporation, partnership, unincorporated association, group, or other legal entity designated by the secretary to administer the provisions of this Part.

(iii) Any facility, place, center, agency, person, institution, corporation, partnership, unincorporated association, group, or other legal entity operated, or be reimbursed under the Medicaid program, unless licensed as a free-standing birth center by the department to perform such services.

(iv) Transport services.

(4) “License” means a license issued by the Louisiana Department of Health to a free-standing birth center.

(5) “Low-risk pregnancy” means a normal, uncomplicated, singleton pregnancy that has vertex presentation and is at low risk for development of complications related to labor and birth, as determined from an evaluation and examination conducted by a physician or other practitioner or individual acting within the scope of his or her practice.

(6) “Secretary” means the secretary of the Louisiana Department of Health or his designee.

(7) “Standards” means policies, procedures, rules, guidelines, and standards of current practice contained in this Part in addition to those rules and standards promulgated by the Louisiana Department of Health for the licensing and operation of free-standing birth centers.

§2180.24. Licensure of free-standing birth centers

A. All free-standing birth centers shall be licensed by the Louisiana Department of Health. No facility, place, center, agency, person, institution, corporation, partnership, unincorporated association, group, or other legal entity providing free-standing birth center services shall be established or operated, or be reimbursed under the Medicaid program, unless licensed as a free-standing birth center by the department to perform such services.

B. The health, safety, welfare, and well-being of persons receiving services at a free-standing birth center shall be valid for one geographic location and issued to the entity and persons and premises named in the license application.

C. A license issued pursuant to this Part shall be valid for twelve months unless revoked or otherwise suspended prior to that date, commencing with the month of issuance.

D. Unless otherwise renewed or stated in the rules promulgated by the department, a license issued pursuant to this Part shall expire on the last day of the twelfth month after the date of issuance.

E. A license issued pursuant to this Part shall be on a form prescribed by the department.

F. A license issued pursuant to this Part shall not be transferable or assignable.

G. A license issued to a free-standing birth center shall be posted in a conspicuous place on the licensed premises.

§2180.25. Rules and regulations; licensing standards

A. The department shall prescribe, promulgate, and publish rules, regulations, and licensing standards, in accordance with the Administrative Procedure Act, and to provide for all of the following:

(1) The licensure of free-standing birth centers.

(2) The health, safety, welfare, and well-being of persons receiving services at the Free-Standing Birth centers.

(3) The safe operation and maintenance of free-standing birth centers.

B. (1) The rules, regulations, and licensing standards shall become effective upon approval by the secretary of the department in accordance with the Administrative Procedure Act.

(2) The rules, regulations, and licensing standards shall have the effect of law and shall include, but not be limited to:

(a) Licensure application and renewal, including forms, procedures, and requirements.

(b) Operational requirements.

(c) Practice standards to assure quality of care.

(d) Practice standards to assure that health, safety, welfare, well-being, and comfort of persons receiving care and services.

(e) Confidentiality of clients’ records.

(f) Criteria and protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

(g) Administration, personnel, and staffing requirements.

(h) Survey and complaint investigations, including investigations into allegations that a provider is operating without a license.

(i) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.

(j) Planning, construction, and design of the center to ensure the health, safety, welfare, well-being, and comfort of persons receiving care and services.

(l) The requirement that each free-standing birth center be located within a ground-travel-time distance from a general acute care hospital providing obstetric services which allows for an emergency cesarean delivery to begin within thirty minutes, and the decision that a cesarean delivery is necessary.

(m) Requirements for each free-standing birth center to have agreements or written policies and procedures with other agencies, institutions, or individuals, for services to clients including but not limited to:

(i) Laboratory and diagnostic services.

(ii) Obstetric consultation services.

(iii) Pediatric consultation services.

(iv) Transport services.

(v) Obstetric/newborn acute care in hospitals.

(n) Requirements for each free-standing birth center to have an established consultation, collaboration, or referral system, in both emergency and non-emergency circumstances, that falls outside the scope of birth center practice, to meet the needs of a mother or baby.

(n) Requirements for free and standardized transport protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

(p) Requirements for documentation of adequate prenatal care during the pregnancy.

(q) Requirements for documentation and evidence that the delivery is expected to be low risk, singleton birth, and vertex presentation.

(r) Requirements for meeting specific national standards for birth centers promulgated by the American Association of Birth Centers, as well as requirements for accreditation by the Commission for Accreditation of Birth Centers.

(s) Other regulations or standards that will ensure proper care and treatment of persons receiving care and services at the free-standing birth center, that may be deemed necessary by the department for an effective administration of this Part.

C. No free-standing birth center shall be required to obtain a license pursuant to this Part until the initial rules, regulations, and licensing procedures are adopted and scored (House Bills) and underscored and type are deletions from existing law; words underlined (Senate Bills) are additions.
To enact R.S. 47:511.4, relative to the registration of commercial motor vehicles; to provide for the assistant secretary of the office of motor vehicles, not later than October 1, 2020, to establish, operate, and maintain motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety regulatory and enforcement activities; to provide for suspension, revocation, or refusal to issue or renew the registration of a commercial motor vehicle under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:511.4 is hereby amended to read as follows:

§511.4. Information systems; denial or revocation of registration

A. Not later than October 1, 2020, the assistant secretary of the office of motor vehicles shall establish, operate, and maintain motor carrier, commercial motor vehicle, or driver information systems and data analysis programs to support safety regulatory and enforcement activities, which contain with the information systems established and operated by the secretary of the United States Department of Transportation pursuant to 49 U.S.C. 31106.

B. The failure of an applicant for registration of a commercial motor vehicle to provide information required by the registrar on the application or to provide required support documentation shall be grounds for denial of the application for registration.

C. The assistant secretary may suspend, revoke, or refuse to issue or renew the registration, registration card, registration plate, or permit of a commercial motor vehicle if the commercial motor carrier responsible for safety has been prohibited from operating by a federal agency.

Approved by the Governor, June 11, 2019.

A true copy

R. Kyle Ardoin
Secretary of State

ACT No. 334

S E N A T E B I L L N O . 4 9
BY SENATOR FANNIN
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the
Constitution of Louisiana.

To amend and reenact R.S. 6:626(A) and R.S. 9:1783(A), relative to trusts; to provide relative to Louisiana out-of-state trust companies; to provide relative to offices and activities that may be conducted; to provide relative to entities qualifying as trustees; to provide certain terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:626(A) is hereby amended and reenacted to read as follows:

§626. Out-of-state trust companies

A. An out-of-state trust company may act as a fiduciary in this state or engage in a trust business at an office in this state only to the extent that the state by which it is chartered allows a Louisiana institution to perform such trust activities therein. An out-of-state trust company may establish a representative office in Louisiana at which the out-of-state trust company may conduct trust-related business, except that the company may not enter into any trust agreements pursuant to the laws of this state.

A(1) An out-of-state trust company may act as a fiduciary from a trust office only if both of the following conditions are met:

(a) The out-of-state trust company maintains a trust office in the state of Louisiana.

(b) In the state where the out-of-state trust company has its principal location, similar institutions chartered under Louisiana law may establish offices and engage in substantially similar activities authorized under this Chapter.

Section 2. R.S. 9:1783(A) is hereby amended and reenacted to read as follows:

§1783. Who may be trustee

A. Only the following persons or entities may serve as a trustee of a trust established pursuant to this Code:

(1) A natural person enjoying full capacity to contract who is a citizen or resident alien of the United States, who may be the settlor, the beneficiary, or both.

(2) A federally insured depository institution organized under the laws of Louisiana, another state, or of the United States, or a financial institution or trust company authorized to exercise trust or fiduciary powers under the laws of Louisiana or of the United States.

(3) A financial institution or trust company organized under the laws of Louisiana or the United States, authorized to exercise trust or fiduciary powers

* As it appears in the enrolled bill
under the laws of Louisiana or of the United States, or trust company organized under the laws of another state and operating in Louisiana pursuant to R.S. 6:626.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 335
SENATE BILL NO. 50
BY SENATOR FANNIN
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

To amend and reenact R.S. 33:1(B)(1)(a) and (b), to provide relative to petition for incorporation by unincorporated areas; to provide regarding the date of filing; and to provide for related matters.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 336
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SENATE BILL NO. 54
BY SENATOR MILLS
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

To amend and reenact R.S. 17:2048.51(C)(16) and (G)(3) and to enact R.S. 17:2048.51(C)(19) through (22) and (G)(9) through (12), relative to the Louisiana Health Works Commission; to provide for membership of the commission and its executive committee; and to provide for related matters.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 337
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SENATE BILL NO. 55
BY SENATOR RISER
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

To amend and reenact R.S. 3:4623(C), relative to the Louisiana Weights and Measures Law; to provide relative to the sale of shelled field corn; to exempt the sale of shelled field corn from the Louisiana Weights and Measures Law under certain conditions; and to provide for related matters.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

THE ADVOCATE
(2) The taxpayer shall:
(a) Be a certified medical primary care health professional who is a physician possessing an unrestricted license from this state to practice medicine, a primary care physician assistant licensed by this state, or a primary care nurse practitioner who is licensed by this state;
(b) If a medical physician or nurse practitioner, establish and maintain, after July 1, 1991, or, if a physician assistant or optometrist, establish and maintain after July 1, 2019, the primary office of his practice within an area which that is both:
   (i) A primary care high needs geographic health professional shortage area (HPSA) as designated by the U.S. Department of Health and Human Services’ Health Resources and Services Administration’s Bureau of Health Workforce, Division of Policy and Shortage Designation (DPSD) as per Section 332 of the Public Health Service Act.
   (ii) A rural area as defined in rules promulgated by the Louisiana Department of Health.

(3) The provisions of this Subsection shall be available to a physician, primary care nurse practitioner, primary care physician assistant, optometrist, or dentist for only one relocation and only for a maximum of five years. In the event that the physician, primary care nurse practitioner, primary care physician assistant, optometrist, or dentist ceases to comply with these provisions within the three-year period, all taxes reduced hereunder shall be subject to recapture pursuant to rules promulgated by the department.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 339

SENATE BILL NO. 62
BY SENATOR MORRISH
AN ACT
To amend and reenact R.S. 34:484(B), relative to the Calcasieu-Cameron Navigation District board of commissioners; to provide for meetings of the board of commissioners; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 34:484(B) is hereby amended and reenacted to read as follows:

§484. Officers and employees of board; meetings; quorum

B. The board shall meet in regular session once each month and quarter and shall also meet in special session as often as the president or any member of the board convener of the board convenes them, or on written request of three members. The board shall prescribe rules to govern its meetings.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 340

SENATE BILL NO. 66
BY SENATOR RISER
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.
AN ACT
To amend and reenact Code of Criminal Procedure Art. 163(C) and to enact Code of Criminal Procedure Art. 163(E), relative to search warrants; to provide relative to search warrants for data or information contained on a computer or other electronic device; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 163(C) is hereby amended and reenacted and Code of Criminal Procedure Art 163(E) is hereby enacted to read as follows:

Art. 163. Officer to whom directed; time for execution; electronic devices

C. Except as authorized by Article 163.1 or as otherwise provided in this Article, or as otherwise provided by law, a search warrant cannot be lawfully executed after the expiration of the tenth day after its issuance.

E. (1) Notwithstanding any other provision of law to the contrary, if a warrant is issued to search for and seize data or information contained in or on a computer, disk drive, flash drive, cellular telephone, or other electronic communication, or data storage device, the warrant is considered to have been executed within the time allowed in Paragraph C of this Article if the device was seized before the expiration of the time allowed, or if the device was in law enforcement custody at the time of the issuance of the warrant.

(2) Notwithstanding any other provision of law to the contrary, if a device described in Subparagraph (1) of this Paragraph was seized before the expiration of the time allowed in Paragraph C of this Article, or if the device was in law enforcement custody at the time of the issuance of the warrant, any data or information contained in or on the device may be recovered or extracted pursuant to the warrant at any time, and such recovery or extraction shall not be subject to the time limitation in Paragraph C of this Article.

Approved by the Governor, June 11, 2019.
A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 342

SENATE BILL NO. 69
BY SENATORS JOHN SMITH AND THOMPSON
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.
AN ACT
To authorize and empower the Louisiana Department of Health to sell or transfer title to certain described property, together with all buildings and improvements thereon, located in the parish of Vernon; to provide for the property description; to provide for reservation of mineral rights; to provide terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The commissioner of administration and the secretary of the Louisiana Department of Health, notwithstanding any other provision of law to the contrary, are hereby authorized and empowered, for and on behalf of the state of Louisiana, to convey, transfer, assign, lease, or deliver any interest, title, or possession of any nature in, to, and on property, together with all buildings and improvements thereon, to the Museum of America’s Training Ground, Inc.:

PARCEL ONE: Blocks Fifty-Two (52) and Fifty-seven (57) of the West Side Addition to the Town of Leesville, Louisiana.

PARCEL TWO: Begin at the Southwest corner of Block Fifty-two (52) of the West side Addition to the Town of Leesville, Louisiana, thence West extending in a straight line with the south boundary line of said Block a distance of 325 1/2 feet to the West line of Section 25, Township 2 North, Range 9 West, then North...
Act No. 1174 of the 1997 Regular Session of the Legislature is hereby amended to read as follows:

Section 2. R.S. 33:4710.12(A)(introductory paragraph) is hereby amended and reenacted and R.S. 33:4710.12(A)(1)(f) is hereby enacted to read as follows:

Section 3. References to R.S. 33:4710.12(A) in this Act refer to that Subsection as enacted in the Act that originated as House Bill No. 617 of this 2019 Regular Session of the Legislature.

Section 4. Sections 1 and 2 of this Act are intended to achieve the same purpose but are drafted differently. Section 1 amends provisions of law as they are presently. Section 2 amends provisions of law as they will be if House Bill No. 617 of this 2019 Regular Session of the Legislature becomes law. Only one of the two Sections shall be given effect as follows:

(1) If House Bill No. 617 of this 2019 Regular Session of the Legislature becomes law, the provisions of Section 1 of this Act shall not become effective.

(2) If House Bill No. 617 of this 2019 Regular Session of the Legislature does not become law, the provisions of Section 2 of this Act shall not become effective.

Section 5. Subject to the limitation provided by Section 4 of this Act, this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 343

SENATE BILL NO. 72
BY SENATOR CARTER
AN ACT
To amend and reenact Section 2(a) of Act 305 of the 1978 Regular Session of the Legislature as amended by Act No. 572 of the 1984 Regular Session of the Legislature, Act No. 1013 of the 1993 Regular Session of the Legislature, and Act No. 1174 of the 1997 Regular Session of the Legislature or to amend and reenact R.S. 33:4710.12(A)(introductory paragraph) and to enact R.S. 33:4710.12(A)(1)(f), relative to the board of commissioners for the Ernest N. Morial-New Orleans Exhibition Authority; to add an additional member to the board of commissioners; to provide for residency requirements of the member; and to provide for related matters.

Notice of intention to introduce this Act has been published. Be it enacted by the Legislature of Louisiana:

Section 1. Section 2(a) of Act 305 of the 1978 Regular Session of the Legislature as amended by Act No. 572 of the 1984 Regular Session of the Legislature, Act No. 1013 of the 1993 Regular Session of the Legislature, and Act No. 1174 of the 1997 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

Section 2. (a) The authority shall be governed by a board of commissioners, hereinafter called the “board”, which shall be composed of twelve thirteen appointed members. Three members shall be appointed by the governor. One member shall be appointed by the mayor of the city of New Orleans with the consent of the council of the city of New Orleans. One member shall be appointed by the governor from a list of three names submitted by the Greater New Orleans Restaurant Association. Three members shall be appointed by the governor from a list of three names submitted by the Greater New Orleans Hotel and Motel Association. Louisiana Restaurant Association, Greater New Orleans Chapter. Two members shall be appointed by the mayor of the city of New Orleans with the consent of the council of the city of New Orleans. One member shall be appointed by the governor from a list of three names submitted by the Greater New Orleans Convention and Convention Commission. Three members shall be appointed by the mayor of the city of New Orleans with the consent of the council of the city of New Orleans. One member shall be appointed by the mayor of the city of New Orleans with the consent of the council of the city of New Orleans. One member shall be appointed by the mayor of the city of New Orleans with the consent of the council of the city of New Orleans. One member shall be appointed by the governor from a list of three names submitted by the Greater New Orleans Convention and Convention Commission, New Orleans & Company, formerly the New Orleans Convention and Visitors Bureau with the consent of the council of the city of New Orleans. One member shall be appointed by the mayor of the city of New Orleans from a list of three names submitted by the Greater New Orleans Convention and Convention Commission. One member shall be appointed by the mayor of the city of New Orleans and the River Region with the consent of the council of the city of New Orleans. One member shall be appointed by the governor who shall be a resident of the legislative district in which the Ernest N. Morial Convention Center is located, and who shall be selected by the state representative and state senator from that district. One member shall be appointed by the governor who shall reside on the Westbank of Orleans Parish and shall have experience or a background in tourism, hospitality, or business, from a list of three names submitted by the state representative and the state senator who represents House District No. 102 and the state senator who represents Senate District No. 7. From the names remaining on the list of the various aforesaid organizations, the governor shall select and appoint one of them as a member of the authority and who shall also serve as its president. Except as provided in the Subsection, all persons who are appointed to the board shall be residents of or have their principal place of business in the parish of Orleans.

Section 2. R.S. 33:4710.12(A)(introductory paragraph) is hereby amended and reenacted and R.S. 33:4710.12(A)(1)(f) is hereby enacted to read as follows:

Board of commissioners

A. The authority shall be governed by a board of commissioners, hereinafter referred to as the “board”, composed of twelve thirteen members appointed as follows:

(1) The governor shall appoint:

(2) One member who resides on the Westbank of Orleans Parish and who has experience or a background in tourism, hospitality, or business, from a list of three names submitted by the state representative who represents House District No. 102 and the state senator who represents Senate District No. 7.

Section 3. References to R.S. 33:4710.12(A) in this Act refer to that Subsection as enacted in the Act that originated as House Bill No. 617 of this 2019 Regular Session of the Legislature.

Section 4. Sections 1 and 2 of this Act are intended to achieve the same purpose but are drafted differently. Section 1 amends provisions of law as they are presently. Section 2 amends provisions of law as they will be if House Bill No. 617 of this 2019 Regular Session of the Legislature becomes law. Only one of the two Sections shall be given effect as follows:

(1) If House Bill No. 617 of this 2019 Regular Session of the Legislature becomes law, the provisions of Section 1 of this Act shall not become effective.

(2) If House Bill No. 617 of this 2019 Regular Session of the Legislature does not become law, the provisions of Section 2 of this Act shall not become effective.

Section 5. Subject to the limitation provided by Section 4 of this Act, this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 344

SENATE BILL NO. 82
BY SENATOR LAMBERT AND REPRESENTATIVE BISHOP
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT
To amend and reenact R.S. 40:1749.13(B)(5), 1749.14(C)(1)(b)(ii) and (3), and 1749.22, relative to underground utilities and facilities; to provide for powers and duties of the commissioner of conservation; to provide for time extensions for certain work to be performed; to provide relative to preemption; to provide for certain procedures, terms, and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1749.13(B)(5), 1749.14(C)(1)(b)(ii) and (3), and 1749.22 are hereby amended and reenacted to read as follows:

1749.13. Excavation and demolition; prohibitions

*   *   *

B. *   *   *

(5) The excavator or demolisher shall wait at least forty-eight hours, beginning at 7:00 a.m. on the next working day, following notification, unless mutually agreed upon and documented by the excavator and operator to extend such time, before commencing any excavation or demolition activity, except in the case of an emergency, as defined in the provisions of this Part or if informed by the regional notification center that no operators are to be notified. However, if no agreement for an extension of time can be reached between the excavator and the operator and the excavation or demolition activity could impact a pipeline located on or in water, upon request by the operator the commissioner may delay the mark-by-time prior to the commencement of any excavation or demolition activity in order to allow for the accurate marking of such pipeline.

*   *   *

1749.14. Regional notification center

*   *   *

C(1) Each operator of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate, shall supply, prior to the proposed excavation, the following information to the person responsible for the excavation:

*   *   *

(b) *   *   *

THE ADVOCATE

* As it appears in the enrolled bill

CODING: Words in *boldfaced* type are deletions from existing law; words under *scored* (House Bills) and underscored and *boldfaced* (Senate Bills) are additions.
Section 1. R.S. 23:1203.1(K) is hereby amended and reenacted to read as follows:

§1203.1. Definitions; medical treatment schedule; medical advisory council

K. After the issuance of the decision by the medical director or associate medical director of the office, any party who disagrees with the decision may then appeal by filing a “Disputed Claim for Compensation”, which is LWCF Form 1008, within forty-five days of the date of the issuance of the decision. The decision may be overturned when it is shown, by clear and convincing evidence, the decision of the medical director or associate medical director was not in accordance with the provisions of this Section.

§1749.22. Preemption

No Except as provided in this Part, no parish, municipal, local, or state governing authority may enact any ordinance or promulgate any rules or regulations which are in conflict with the provisions of this Part.

Approved by the Governor, June 11, 2019.

R. Kyle Ardoin
Secretary of State

ACT No. 346

SENATE BILL NO. 96
BY SENATOR BISHOP AND REPRESENTATIVE BOUIE
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.
AN ACT
To amend and reenact R.S. 33:2747.1(D)(1), relative to the Gentilly Development Service District in Orleans Parish; to provide for board membership; to remain for the remainder of the unexpired term in the same manner as the predecessor appointee was selected.

Approved by the Governor, June 11, 2019.

R. Kyle Ardoin
Secretary of State

ACT No. 347

SENATE BILL NO. 96
BY SENATOR BISHOP AND REPRESENTATIVE BOUIE
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.
AN ACT
To amend and reenact R.S. 33:2747.10(D)(1), relative to the Gentilly Development Service District in Orleans Parish; to provide for board membership; to provide for related matters.

Notice of intention to introduce this Act has been published. Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:2747.10(D)(1) is hereby amended and reenacted to read as follows:

§2747.10. The Gentilly Development Service District; creation, composition, and powers; levy of ad valorem taxes and issuance of bonds

D. The district shall be governed by a six-member seven-member board of commissioners, referred to in this Section as the “board”. The board shall be composed as follows:

(1)(a) The state representative who represents House District No. 97, or his designee.

(b) The state representative who represents House District No. 99, or his designee.

(c) The state senator who represents Senate District No. 3, or his designee.

(d) The state senator who represents Senate District No. 4, or his designee.

(e) The mayor of the city of New Orleans, or his designee.

(f) The city council member whose district encompasses all or a greater portion of the area of the district, or his designee.

(g) The assessor for the area included within the district, or his designee.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor...
Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:243 is hereby amended and reenacted to read as follows: § 6:243. Immovable property; dealings; A state bank may lawfully purchase, hold, and convey any immovable property:

(1) Which is necessary for the proper transaction of its business.
(2) Which has been mortgaged to it in good faith as security for loans.
(3) Which has been conveyed to it in satisfaction of debts previously contracted bona fide in the course of its business.
(4) Which it purchases at sales under judgment of mortgages held by it or in which it has an interest by being subrogated to rights according to Article 1829 of the Civil Code.
(5) Pursuant to participation in a shared appreciation loan or home equity conversion loan, including but not limited to reverse mortgages and shared appreciation mortgages, wherein the bank has a right to receive a share of the appreciation in value of the security property upon maturity of the loan. Such loans shall be authorized when any of the following exist:
   (a) The security property of the borrower is designed principally as a single-family residence.
   (b) The property has been conveyed to the bank as security for a debt which is not assumed.
   (c) The loan is authorized pursuant to the Alternative Mortgage Transaction Parity Act of 1982, 12 U.S.C. §§ 3801, et seq., and regulations issued thereunder, or regulations issued by the office of financial institutions as provided in this Title.

B. Except for property held pursuant to Paragraphs (A)(1) and (A)(5) of this Section, a state bank shall not hold immovable property as an asset for a longer time than ten years, except as provided in Paragraphs (E)(2) or (F)(1) of this Section. Any bank holding immovable property which is subject to the ten-year divestiture period shall enter the immovable property on its books in accordance with generally accepted accounting principles (GAAP).

(2)(b) A state bank shall obtain annually, within a reasonable time as determined by the commissioner, from a qualified appraiser a current appraisal of the fair market value of any such property valued at an amount greater than two hundred fifty thousand dollars and shall account for the property in accordance with GAAP.

(1) Property held in perpetuity subject to Paragraph (1) of this Subsection shall not be required to be appraised.

(2) Property held in perpetuity subject to Paragraph (1) of this Subsection and held in a subsidiary of the bank shall not be required to be appraised.

C. (1) For immovable property provided for in Paragraphs (A)(2), (A)(3), and (A)(4) of this Section, a state bank shall obtain, within a reasonable time before or after the property is acquired, a current appraisal of the fair market value of any such property and shall account for the property in accordance with generally accepted accounting principles (GAAP). For purposes of this Paragraph, a state bank may perform an evaluation in lieu of an appraisal for residential real estate valued at or below two hundred fifty thousand dollars and for commercial real estate valued at or below five hundred thousand dollars.

(2) Any additional appraisal shall be required for immovable property every third calendar year from the date the initial appraisal was obtained pursuant to Paragraph (1) of this Subsection. For purposes of this Paragraph, a state bank may perform an evaluation in lieu of an appraisal for residential immovable property valued at or below two hundred fifty thousand dollars and for commercial immovable property valued at or below five hundred thousand dollars.

(3) Notwithstanding Paragraph (2) of this Subsection, for commercial immovable property valued above five hundred thousand dollars, an additional appraisal shall be required every third calendar year from the date the initial appraisal was obtained pursuant to Paragraph (1) of this Subsection.

D. (1) The commissioner may require additional appraisals or evaluations of immovable property provided for in Paragraphs (A)(2), (A)(3), and (A)(4) of this Section, not more often than annually, if the commissioner determines either of the following to be true:
   (a) The appraisal or evaluation is necessary for safety and soundness reasons.
   (b) The appraisal or evaluation is necessary due to a material decline in the condition or market value of a specific property or local real estate market.

(2) For purposes of this Subsection, the commissioner may require an appraisal for immovable properties of any value pursuant to this Section, regardless of the thresholds established in this Section.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

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ACT No. 348

SENATE BILL NO. 101
BY SENATOR WHITE
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT
To amend and reenact R.S. 6:243, relative to banks; to provide relative to immovable property and dealings; to authorize certain actions; to provide certain requirements, terms, conditions, procedures, and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:243 is hereby amended and reenacted to read as follows: § 6:243. Immovable property; dealings; A state bank may lawfully purchase, hold, and convey any immovable property:

(1) Which is necessary for the proper transaction of its business.
(2) Which has been mortgaged to it in good faith as security for loans.
(3) Which has been conveyed to it in satisfaction of debts previously contracted bona fide in the course of its business.
(4) Which it purchases at sales under judgment of mortgages held by it or in which it has an interest by being subrogated to rights according to Article 1829 of the Civil Code.
(5) Pursuant to participation in a shared appreciation loan or home equity conversion loan, including but not limited to reverse mortgages and shared appreciation mortgages, wherein the bank has a right to receive a share of the appreciation in value of the security property upon maturity of the loan. Such loans shall be authorized when any of the following exist:
   (a) The security property of the borrower is designed principally as a single-family residence.
   (b) The property has been conveyed to the bank as security for a debt which is not assumed.
   (c) The loan is authorized pursuant to the Alternative Mortgage Transaction Parity Act of 1982, 12 U.S.C. §§ 3801, et seq., and regulations issued thereunder, or regulations issued by the office of financial institutions as provided in this Title.

B. Except for property held pursuant to Paragraphs (A)(1) and (A)(5) of this Section, a state bank shall not hold immovable property as an asset for a longer time than ten years, except as provided in Paragraphs (E)(2) or (F)(1) of this Section. Any bank holding immovable property which is subject to the ten-year divestiture period shall enter the immovable property on its books in accordance with generally accepted accounting principles (GAAP).

(2)(a) A state bank shall obtain annually, within a reasonable time as determined by the commissioner, from a qualified appraiser a current appraisal of the fair market value of any such property valued at an amount greater than two hundred fifty thousand dollars and shall account for the property in accordance with GAAP.

(1) Property held in perpetuity subject to Paragraph (1) of this Subsection shall not be required to be appraised.

(2) Property held in perpetuity subject to Paragraph (1) of this Subsection and held in a subsidiary of the bank shall not be required to be appraised.

C. (1) For immovable property provided for in Paragraphs (A)(2), (A)(3), and (A)(4) of this Section, a state bank shall obtain, within a reasonable time before or after the property is acquired, a current appraisal of the fair market value of any such property and shall account for the property in accordance with generally accepted accounting principles (GAAP). For purposes of this Paragraph, a state bank may perform an evaluation in lieu of an appraisal for residential real estate valued at or below two hundred fifty thousand dollars and for commercial real estate valued at or below five hundred thousand dollars.

(2) Any additional appraisal shall be required for immovable property every third calendar year from the date the initial appraisal was obtained pursuant to Paragraph (1) of this Subsection. For purposes of this Paragraph, a state bank may perform an evaluation in lieu of an appraisal for residential immovable property valued at or below two hundred fifty thousand dollars and for commercial immovable property valued at or below five hundred thousand dollars.

(3) Notwithstanding Paragraph (2) of this Subsection, for commercial immovable property valued above five hundred thousand dollars, an additional appraisal shall be required every third calendar year from the date the initial appraisal was obtained pursuant to Paragraph (1) of this Subsection.

D. (1) The commissioner may require additional appraisals or evaluations of immovable property provided for in Paragraphs (A)(2), (A)(3), and (A)(4) of this Section, not more often than annually, if the commissioner determines either of the following to be true:
   (a) The appraisal or evaluation is necessary for safety and soundness reasons.
   (b) The appraisal or evaluation is necessary due to a material decline in the condition or market value of a specific property or local real estate market.

(2) For purposes of this Subsection, the commissioner may require an appraisal for immovable properties of any value pursuant to this Section, regardless of the thresholds established in this Section.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

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ACT No. 349

SENATE BILL NO. 102
BY SENATOR ERDEY
AN ACT
To enact R.S. 33:447.16, to authorize certain court costs in the mayor's court of the town of Livingston; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:447.16 is hereby enacted to read as follows:

§ 447.16. Mayor's court; town of Livingston; court costs

Notwithstanding R.S. 33:444(A) or any other provision of law to the contrary, the mayor of the town of Livingston may impose court costs not to exceed fifty dollars for each offense, as defined by ordinance, on any defendant convicted of a violation of a municipal ordinance.

Section 2. This Act shall become effective upon enactment by the governor of the state of Louisiana.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

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ACT No. 350

SENATE BILL NO. 115
BY SENATOR WARD AND REPRESENTATIVE JIM MORRIS
Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT
To enact R.S. 33:447.16, to authorize certain court costs in the mayor's court of the town of Livingston; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:447.16 is hereby enacted to read as follows:

§ 447.16. Mayor's court; town of Livingston; court costs

Notwithstanding R.S. 33:444(A) or any other provision of law to the contrary, the mayor of the town of Livingston may impose court costs not to exceed fifty dollars for each offense, as defined by ordinance, on any defendant convicted of a violation of a municipal ordinance.

Section 2. This Act shall become effective upon enactment by the governor of the state of Louisiana.

Approved by the Governor, June 11, 2019.

A true copy:

R. Kyle Ardoin
Secretary of State

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THE ADVOCATE

* As it appears in the enrolled bill
To amend and reenact R.S. 31:164, 166, and 175, relative to mineral rights and operations; to provide relative to co-ownership; to provide relative to the rights and consequences arising from co-ownership of land and mineral rights; to provide relative to the creation of servitudes and leases; to provide relative to the exercise of rights and the conducting of operations; to provide certain terms, conditions, consent requirements, procedures, and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 31:164, 166, and 175 are hereby amended and reenacted to read as follows:

§164. Creation of mineral servitude by co-owner of land

A co-owner of land may create a mineral servitude out of his undivided interest in the land, and prescription commences from the date of its creation. One who desires to create a mineral servitude from a co-owner of land may not exercise his right without the consent of co-owners owning at least an undivided eighty-seven and one half percent interest in the land, provided that he has made every effort to contact such co-owners and, if contacted, has offered to contract with them on substantially the same basis that he has contracted with another co-owner. A co-owner of the land who does not consent to the exercise of such rights has no liability for the costs of development and operations, except out of his share of production.

§166. Granting of mineral lease by co-owner of land

A co-owner of land may grant a valid mineral lease or a valid lease or permit for geological surveys, by means of a torsion balance, seismographic explosions, mechanical device, or any other method as to his undivided interest in the land, but the lessee or permittee may not exercise his rights therein without the consent of co-owners owning at least an undivided eighty-seven and one half percent interest in the land, provided that he has made every effort to contact such co-owners and, if contacted, has offered to contract with them on substantially the same basis that he has contracted with another co-owner. A co-owner of the land who does not consent to the exercise of such rights has no liability for the costs of development and operations or other costs, except out of his share of production.

§175. Co-owner of mineral servitude may not operate independently

A co-owner of a mineral servitude may not conduct operations on the property subject to the servitude without the consent of co-owners owning at least an undivided eighty-seven and one half percent interest in the servitude, provided that he has made every effort to contact such co-owners and, if contacted, has offered to contract with them on substantially the same basis that he has contracted with another co-owner. Operations as used in this Section shall include geological surveys, by means of a torsion balance, seismographic explosions, mechanical device, or any other method. A co-owner of the servitude who does not consent to such operations has no liability for the costs of development and operations except out of his share of production.

Section 2. The provisions of this Act shall have prospective application only and shall apply only to contracts entered into on or after the effective date of this Act.

Approved by the Governor, June 11, 2019.

A true copy

BY LAURIE JARDIN
Secretary of State

ACT No. 351

SENATE BILL NO. 119

BY SENATORS COLOMB, BARROW, BISHOP, BOUDREAUD, CARTER, CHABERT, CLAITOR, CORTEZ, ERDEY, HENSGENS, HEWITT, JOHNS, LAFLEUR, LONG, MARTINY, MILLS, MORRELL, PETERSON, PRICE, GARY SMITH, THOMPSON AND WALSORTH AND REPRESENTATIVES ADAMS, AMEDEE, BAGLEY, BILLIOT, TERRY BROWN, CARBONODY, DUNN, GAYLORD, GLOVER, HORTON, LANDRY, DUSTIN MILLER AND THOMAS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

To enact R.S. 36:249(B)(36) and R.S. 40:2018.5, relative to the Palliative Care Interdisciplinary Advisory Council; to provide for placement within the Louisiana Department of Health; to provide for legislative intent; to provide for subject matter to be studied by the council; to provide for duties and responsibilities of the council; to provide for the council membership; to provide for minimum organization and task requirements; to provide for staff support; to provide for recommendations to the legislature; to provide for termination; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:249(B)(36) is hereby enacted to read as follows:

§230. Transfer of agencies and functions to Louisiana Department of Health

B. The following agencies, as defined in R.S. 36:3, are placed within the Louisiana Department of Health and shall perform and exercise their powers, duties, functions, and responsibilities as otherwise provided by law:

(36) The Palliative Care Interdisciplinary Advisory Council (R.S. 40:2018.6).

Section 2. R.S. 40:2018.6 is hereby enacted to read as follows:

§2018.6. Palliative Care Interdisciplinary Advisory Council creation; purpose; termination.

A. The legislature finds and declares that research indicates palliative care is appropriate for a patient of any age and at any stage of a serious illness and can reduce medical costs and patient recovery time when provided by a team of palliative care specialists, including physicians, nurses, social workers, and other healthcare providers who are able to provide a comprehensive assessment and treatment of pain and other problems, physical, psychosocial, and spiritual. "Palliative care" services:

(1) Provide relief from pain and other distressing symptoms.
(2) Affirm life and regards dying as a normal process.
(3) Intend neither to hasten or postpone death.
(4) Offer a support system to help patients live as actively as possible until death.
(5) Offer a support system to help the family cope during the patient's illness and in their own bereavement.
(6) Use a team approach to address the needs of patients and their families, including bereavement counseling, if indicated.
(7) Will enhance quality of life, and may also positively influence the course of illness.

B. For purposes of this Section, the following definitions shall apply:

(1) "Council" means the Palliative Care Interdisciplinary Advisory Council.
(2) "Department" means the Louisiana Department of Health.
(3) "Palliative care" means an approach that improves the quality of life of patients and their families facing the problems associated with life-threatening illnesses, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial, and spiritual.

C. (1) The legislature hereby creates within the Louisiana Department of Health the Palliative Care Interdisciplinary Advisory Council to assess the availability of patient-centered and family-focused palliative care in this state and make recommendations to the secretary and the legislature. Members of the council shall have at least two years of experience providing individual or interdisciplinary palliative care to pediatric, youth, or adult populations in inpatient, outpatient, or community settings.

(2) The council shall be composed of the following seventeen members:

(a) Four physician members, including two who are board certified in hospice and palliative care, one who shall be board certified in pain management, and one who shall be board certified in pediatric care appointed by the Louisiana State Board of Medical Examiners.
(b) Three nurse members, including two who are advance practice registered nurses who are board certified in hospice and palliative care appointed by the Louisiana State Board of Nursing.
(c) One pharmacist member with experience providing palliative care appointed by the Louisiana Board of Pharmacy.
(d) One social worker with experience providing palliative care appointed by the Louisiana State Board of Social Work Examiners.
(e) One palliative care program administrator or director with current operational experience managing a palliative care program appointed by the governor.
(f) One spiritual care professional with experience providing palliative care appointed by the governor.
(g) One insurance plan administrator with experience in reimbursement coverage and claims processing for palliative care services appointed by the governor.

(3) The following patient and family advocates who are independent of a hospital or other healthcare facility shall be appointed by the governor:

(i) The secretary or his designee, who shall be a nonvoting member.
(ii) The Medicaid director or his designee.
(iii) The council may engage and solicit, as necessary, input, recommendations, and guidance pertaining to palliative care from interested parties and stakeholders including but not limited to the following:
(a) The Louisiana-Mississippi Hospice and Palliative Care Organization.
(b) The American Cancer Society Cancer Action Network.
(c) The HomeCare Association of Louisiana.

THE ADVOCATE
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CODING: Words in lowercase and italics are deletions from existing law; words underlined and underscored and boldfaced (Senate Bills) are additions.
(d) Hospice of Acadiana.
(e) Hospice of Baton Rouge.
(f) The Louisiana Nursing Home Association.
(g) The Louisiana Department of Health, office for citizens with developmental disabilities.
(h) The Louisiana Department of Health, office of behavioral health.
(i) AARP Louisiana (AARP).
(k) Louisiana State Medical Society.
(l) ALS Association Louisiana-Mississippi Chapter.

Members serve at the pleasure of their appointing authorities. If any appointed member misses three consecutive meetings, the secretary shall notify the appointing authority and a new appointment shall be made. If a vacancy occurs on the council, the appointing authority shall make a new appointment.

Members of the council shall serve without compensation.

D. (1) The secretary shall call the first meeting of the council at which the members shall elect and establish the duties of a chair and vice chair.
(2) The chair shall set a time and place for regular public meetings of the council, which shall occur at least quarterly each calendar year.
(3) The department shall provide staff support to the council and shall provide a dedicated link on its website for information regarding the council, including meeting dates and times, minutes from meetings, and any reports or data considered by the council.

E. The council shall consult with and advise the secretary on matters related to the establishment, maintenance, operation, and outcome evaluation of the palliative care consumer and professional information and education established by this Section. In doing so, the council shall perform the following tasks:
(1) Conduct an analysis and submit a report of its findings to the senate and house committees on health and welfare on February first of each year, to include the following:
   (a) Availability of palliative care, including palliative care for children, in this state for patients in the early stages of serious illness.
   (b) Barriers to greater access to palliative care.
   (c) Policies, practices, and protocols in this state concerning patient’s rights related to palliative care, including the following:
      (i) Whether a palliative care team member may introduce palliative care options to a patient without the consent of the patient’s attending physician.
      (ii) The practices and protocols for discussions between a palliative care team member and a patient on life-sustaining treatment or advance directives decisions.
      (iii) The practices and protocols on informed consent and disclosure requirements for palliative care services.
   (2) Establish a statewide palliative care consumer and professional information and education program, in consultation with the department, to ensure that comprehensive and accurate information and education about palliative care are available to the public, healthcare providers, and healthcare facilities.

F. To advance the educational initiative of the council set forth in Paragraph (E)(2) of this Section, the department shall make available on its website the following information and resources regarding palliative care:
(1) Links to external resources regarding palliative care.
(2) Continuing education opportunities on palliative care for healthcare providers.
(3) Information about palliative care delivery in the home, primary, secondary, and tertiary environments.
(4) Consumer educational materials regarding palliative care, including hospice care.

G. Unless reauthorized by the legislature, the provisions of this Section shall expire on March 31, 2022, and this Section shall be considered repealed on that date.